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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 7th August, 1975/Sravana 16, 1897 (Saka)

The following Act of Parliament received the assent of the President on the 7th August, 1975, and is hereby published for general information:—

THE TAXATION LAWS (AMENDMENT) ACT, 1975
NO. 41 OF 1975

[*7th August*, 1975]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1975.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act; and any reference to "the commencement of the Taxation Laws (Amendment) Act, 1975" in any amendment made by any provision of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment of section 2.

2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), after clause (*15*), the following clause shall be inserted, namely:— 43 of 1961.

'(*15A*) "child", in relation to an individual, includes a step-child and an adopted child of that individual;'.

Amendment of section 10.

3. In section 10 of the Income-tax Act,—

(*i*) in clause (*6*), after sub-clause (*vi*), the following sub-clause shall be inserted, namely:—

"(*via*) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered by him in India in connection with such purposes; provided that such institution or association or body and the purposes for which his services are rendered in India are approved by the Central Government;";

(*ii*) after clause (*23B*), the following clause shall be inserted, namely:—

"(*23C*) any income received by any person on behalf of—

(*i*) the Prime Minister's National Relief Fund; or

(*ii*) the Prime Minister's Fund (Promotion of Folk Art);

or

(*iii*) the Prime Minister's Aid to Students Fund; or

(*iv*) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(*v*) any trust (including any other legal obligation) or institution, being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the purposes thereof:

Provided that any notification issued by the Central Government under sub-clause (*iv*) or sub-clause (*v*) shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;".

Amendment of section 11.

4. In section 11 of the Income-tax Act,—

(*i*) in sub-section (*1*),—

(*a*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent. of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent. of the income from such property;";

(*b*) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"*Explanation.*—For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the twenty-five per cent. of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of seventy-five per cent. of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount; and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income [such option to be exercised in writing before the expiry of the time allowed under sub-section (*1*) or sub-section (*2*) of section 139, whether fixed originally or on extension for furnishing the return of income] be deemed to be income applied to such purposes during the

previous year in which the income was derived, and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived.";

(*ii*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) Where any income in respect of which an option is exercised under clause (*2*) of the Explanation to sub-section (*1*) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received, or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.";

(*iii*) in sub-section (*2*), for the portion beginning with the words, brackets, letters and figure "Where any income referred to in clause (*a*) or clause (*b*) of sub-section (*1*)" and ending with the words "the following conditions are complied with, namely:—", the following shall be substituted, namely:—

"Where seventy-five per cent. of the income referred to in clause (*a*) or clause (*b*) of sub-section (*1*) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—";

(*iv*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Notwithstanding anything contained in sub-section (*3*), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (*2*) cannot be applied for the purpose for which it was accumulated or set apart, the Income-tax Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with

the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Income-tax Officer under clause (*a*) of sub-section (2).".

Amendment of section 13.

5. In section 13 of the Income-tax Act,—

(*i*) in sub-section (*1*),—

(*a*) after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any business, any income derived from such business, unless the business is carried on in the course of the actual carrying out of a primary purpose of the trust or institution;";

(*b*) after clause (*c*) and the provisos thereto, the following clause shall be inserted, namely:—

"(*d*) subject to the provisions of clause (*bb*), in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof assessable for any assessment year commencing on or after the 1st day of April, 1979, if any funds of the trust or institution are invested or deposited or continue to remain invested or deposited for any period during any previous year commencing on or after the 1st day of April, 1978, otherwise than in any of the forms or modes specified in sub-section (*5*).";

(*ii*) in sub-section (*3*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds five thousand rupees;";

(*iii*) after sub-section (*4*) and before *Explanation 1*, the following sub-sections shall be inserted, namely:—

'(*5*) The forms and modes of investing or depositing funds referred to in clause (*d*) of sub-section (*1*) shall be—

(*a*) subject to the provisions of clause (*b*), in a case where such funds represent the original corpus of the trust or institution or any contributions made to the trust or institution with a specific direction that they shall form part of the corpus of the trust or institution,—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959, and any other securities or certificates issued by the Central Government under the small savings schemes of that Government;

46 of 1959.

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with any nationalised bank, that is to say, any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*iv*) investment in units in the Unit Trust of India established under the Unit Trust of India Act, 1963; 52 of 1963.

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any Government company as defined in section 617 of the Companies Act, 1956; 1 of 1956.

(*b*) in a case where such funds represent—

(*i*) the corpus of the trust or institution immediately before the 1st day of June, 1973; or

(*ii*) the original corpus (being assets other than cash) of any trust or institution created or established on or after the 1st day of June, 1973; or

(*iii*) any contributions (otherwise than in cash) made to any trust or institution on or after the 1st day of June, 1973, with a specific direction that they shall form part of the corpus of the trust or institution,

any form or mode, other than investment in shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) in a company (not being a Government company as defined in section 617 of the Companies Act, 1956 or a corporation established by or under a Central, State or Provincial Act); 1 of 1956.

(*c*) in any other case, the forms or modes referred to in sub-clause (*i*), sub-clause (*ii*), sub-clause (*iii*) and sub-clause (*iv*) of clause (*a*).

(*6*) Nothing contained in clause (*d*) of sub-section (*1*) shall apply in relation to any monies accumulated or finally set apart and invested or deposited in the manner referred to in clause (*b*) of sub-section (*2*) of section 11.'.

Amendment of section 23.

6. In section 23 of the Income-tax Act,—

(*i*) in sub-section (*1*),—

(*a*) for the opening paragraph, the following shall be substituted, namely:—

"(*1*) For the purposes of section 22, the annual value of any property shall be deemed to be—

(*a*) the sum for which the property might reasonably be expected to let from year to year; or

(*b*) where the property is let and the annual rent received or receivable by the owner in respect thereof

is in excess of the sum referred to in clause (*a*), the amount so received or receivable:";

(*b*) the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the purposes of this sub-section, "annual rent" means—

(*a*) in a case where the property is let throughout the previous year, the actual rent received or receivable by the owner in respect of such year; and

(*b*) in any other case, the amount which bears the same proportion to the amount of the actual rent received or receivable by the owner for the period for which the property is let, as the period of twelve months bears to such period.';

(*ii*) for sub-section (*2*), the following sub-sections shall be substituted, namely:—

"(*2*) Where the property consists of—

(*i*) a house in the occupation of the owner for the purposes of his own residence, the annual value of such house shall first be determined in the same manner as if the property had been let and further be reduced by one-half of the amount so determined or one thousand and eight hundred rupees, whichever is less;

(*ii*) more than one house in the occupation of the owner for the purposes of his own residence, the provisions of clause (*i*) shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf:

Provided that for the purposes of clauses (*i*) and (*ii*), where the sum so arrived at exceeds ten per cent. of the total income of the owner (the total income for this purpose being computed without including therein any income from such property and before making any deduction under Chapter VIA), the excess shall be disregarded.

Explanation.—Where any such residential unit as is referred to in the second proviso to sub-section (*1*) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.

(*2A*) For the removal of doubt, it is hereby declared that, where the property consists of more than one house and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of the houses, other than that the annual value of which is required to be determined under clause (*ii*) of sub-section (*2*), shall be determined under sub-section (*1*) as if such houses had been let.".

Amendment of section 26.

7. In section 26 of the Income-tax Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purposes of this section, in applying the provisions of sub-section (*2*) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.".

Amendment of section 32.

8. In sub-section (*1*) of section 32 of the Income-tax Act, for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) in the case of ships other than ships ordinarily plying on inland waters, such percentage on the actual cost thereof to the assessee as may, in any case or class of cases or in respect of any period or periods, be prescribed:

Provided that different percentages may be prescribed for different periods having regard to the date of acquisition of the ship;".

Amendment of section 35C.

9. In sub-section (*1*) of section 35C of the Income-tax Act,—

(*i*) in clause (*a*), after the words "Where any company", the words "or a co-operative society" shall be inserted;

(*ii*) for the words "the company", wherever they occur, the words "the company or co-operative society" shall be substituted.

Amendment of section 37.

10. In sub-section (*1*) of section 37 of the Income-tax Act, after the words and figures "sections 30 to 36", the words, figures and letters "and section 80VV" shall be inserted.

Insertion of new section 44AA.

11. In Chapter IV of the Income-tax Act, under the heading "*D.—Profits and gains of business or profession*", after section 44A, the following section shall be inserted, namely:—

Maintenance of accounts by certain persons carrying on profession or business.

"44AA. (*1*) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the Income-tax Officer to compute his total income in accordance with the provisions of this Act.

(*2*) Every person carrying on business or profession [not being a profession referred to in sub-section (*1*)] shall,—

(*i*) if his income from business or profession exceeds twenty-five thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds two hundred and fifty thousand rupees in any one of the three years immediately preceding the previous year; or

(*ii*) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed twenty-five thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed two hundred and fifty

thousand rupees, during such previous year,

keep and maintain such books of account and other documents as may enable the Income-tax Officer to compute his total income in accordance with the provisions of this Act.

(*3*) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (*1*) or sub-section (*2*), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.

(*4*) Without prejudice to the provisions of sub-section (*3*), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (*1*) or sub-section (*2*) shall be retained.".

Amendment of section 49.

12. In sub-section (*1*) of section 49 of the Income-tax Act,—

(*a*) after clause (*iii*), the following clause shall be inserted, namely:—

"(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (*2*) of section 64 at any time after the 31st day of December, 1969,";

(*b*) in the *Explanation*, for the words, brackets and figures "clause (*ii*) or clause (*iii*)", the words, brackets and figures "clause (*ii*) or clause (*iii*) or clause (*iv*)" shall be substituted.

Amendment of section 64.

13. In section 64 of the Income-tax Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(*i*) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner;

(*ii*) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest:

Provided that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience;

(*iii*) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm;

(*iv*) subject to the provisions of clause (*i*) of section 27, in a case not falling under clause (*i*) of this sub-section, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual other-

wise than for adequate consideration or in connection with an agreement to live apart;

(*v*) subject to the provisions of clause (*i*) of section 27, in a case not falling under sub-clause (*iii*) of this sub-section, to a minor child (not being a married daughter) of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration;

(*vi*) to the son's wife, or son's minor child, of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife or son's minor child by such individual otherwise than for adequate consideration; and

(*vii*) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both.

Explanation 1.—For the purposes of clause (i), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and, for the purposes of clause (*iii*), the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the Income-tax Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.

Explanation 2.—For the purposes of clause (*ii*), an individual shall be deemed to have a substantial interest in a concern—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives;

(*ii*) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent. of the profits of such concern.

Explanation 3.—For the purposes of clauses (*iv*) and (*v*), where the assets transferred directly or indirectly by an individual to his spouse or minor child are invested by the spouse or

minor child in any business, that part of the income arising out of the business to the spouse or minor child in any previous year, which bears the same proportion to the income of the spouse or minor child from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the spouse or the minor child as on the said day, shall be included in the total income of the individual in that previous year.";

(*b*) in sub-section (*2*),—

(*i*) in clause (*b*), the words ", in so far as it is attributable to the interest of the individual in the property of the family," shall be omitted;

(*ii*) for clause (c), the following clause shall be substituted, namely:—

"(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse or minor child on partition shall be deemed to arise to the spouse or minor child from assets transferred indirectly by the individual to the spouse or minor child and the provisions of sub-section (*1*) shall, so far as may be, apply accordingly:";

(*iii*) in the proviso, for the words "minor son", the words "minor child" shall be substituted;

(*iv*) in the *Explanation*,—

(*A*) the brackets and figure "(*1*)" shall be omitted;

(*B*) clause (*2*) shall be omitted.

Insertion of new sections 69C and 69D.

14. In Chapter VI of the Income-tax Act, under the heading "*Aggregation of income*", after section 69B, the following sections shall be inserted, namely:—

Unexplained expenditure, etc.

"69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year.

Amount borrowed or repaid on *hundi*.

69D. Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be:

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.".

Amendment of section 73.

15. In section 73 of the Income-tax Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—Where any part of the business of a company [other than an investment company, as defined in clause (*ii*) of section 109, or a company the principal business of which is the business of banking or the granting of loans and advances] consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares.".

Amendment of section 80A.

16. In section 80A of the Income-tax Act,—

(*i*) in sub-section (*1*), for the figures and letter "80U", the figures and letters "80VV" shall be substituted;

(*ii*) in sub-section (*3*), the words, figures and letter "or section 80H" shall be omitted.

Amendment of section 80B.

17. In section 80B of the Income-tax Act, clauses (*1*) and (*9*) shall be omitted.

Amendment of section 80G.

18. In section 80G of the Income-tax Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount equal to fifty per cent. of the aggregate of the sums specified in sub-section (*2*).";

(*ii*) in clause (*i*) of sub-section (*5*), after the words, brackets and figures "or clause (*23*)", the words, brackets, figures and letter "or clause (*23C*)" shall be inserted.

Insertion of new section 80GG.

19. In Chapter VIA of the Income-tax Act, under the heading "*B.—Deductions in respect of certain payments*", after section 80G, the following section shall be inserted, namely:—

Deduction in respect of rents paid.

'80GG. In computing the total income of an assessee, not being an assessee having any income falling within clause (*13A*) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed three hundred rupees per month or fifteen per cent. of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations:

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is owned by him or by his spouse or minor child, or, where such assessee is a member of a Hindu undivided family, by such family.

Explanation.—In this section, the expressions "ten per cent. of his total income" and "fifteen per cent. of his total income" shall mean ten per cent. or fifteen per cent., as the case may be, of the assessee's total income before allowing deduction for any expenditure under this section.'.

Omission of section 80H.

20. Section 80H of the Income-tax Act shall be omitted.

Amendment of section 80HH.

21. In section 80HH of the Income-tax Act, sub-section (8) shall be omitted.

Amendment of section 80J.

22. In section 80J of the Income-tax Act,—

(*i*) in sub-section (*1*), for the brackets, words, figures and letters "(reduced by the aggregate of the deductions, if any, admissible to the assessee under section 80H and section 80HH)", the brackets, words, figures and letters "(reduced by the deduction, if any, admissible to the assessee under section 80HH)" shall be substituted;

(*ii*) in sub-section (3), the word, figures and letter "section 80H," shall be omitted.

Amendment of section 80L.

23. In sub-section (*1*) of section 80L of the Income-tax Act, after clause (*vii*), the following clause shall be inserted, namely:—

"(*viia*) interest on deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;".

Amendment of section 80P.

24. In sub-section (3) of section 80P of the Income-tax Act,—

(*i*) the words, figures and letter "section 80H or" shall be omitted;

(*ii*) for the words, figures and letters "deductions under section 80H, section 80HH, section 80J and section 80JJ", the words, figures and letters "deductions under section 80HH, section 80J and section 80JJ" shall be substituted.

Amendment of section 80QQ.

25. In sub-section (*2*) of section 80QQ of the Income-tax Act,—

(*i*) the words, figures and letter "section 80H or" shall be omitted;

(*ii*) the word, figures and letter "section 80H," shall be omitted.

Insertion of new sections 80V and 80VV.

26. In Chapter VIA of the Income-tax Act, under the heading "*D.—Other deductions*", after section 80U, the following sections shall be inserted, namely:—

Deduction of interest on moneys borrowed to pay taxes.

"80V. In computing the total income of an assessee, there shall be allowed by way of deduction any interest paid by him in the previous year on any money borrowed for the payment of any tax due from him under this Act.

Deduction in respect of expenses incurred in connection with certain proceedings under the Act.

80VV. In computing the total income of an assessee, there shall be allowed by way of deduction any expenditure incurred by him in the previous year in respect of any proceedings before any income-tax authority or the Appellate Tribunal or any court relating to the determination of any liability under this Act, by way of tax, penalty or interest:

Provided that no deduction under this section shall, in any case, exceed in the aggregate five thousand rupees.".

Amendment of section 104.

27. In section 104 of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Without prejudice to the provisions of section 108, nothing contained in this section shall apply to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India.".

Amendment of section 109.

28. In section 109 of the Income-tax Act,—

(*a*) after clause (*i*), the following clauses shall be inserted, namely:—

'(*ia*) "industrial company" means an Indian company whose business consists wholly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;

(*ib*) "consultancy service company" means an Indian company whose business consists wholly in the provision of technical know-how, or in the rendering of services in connection with the provision of technical know-how, to other persons.

Explanation.—In this clause and in sub-clause (*3*) of clause (*iii*), the expression "provision of technical know-how" has the meaning assigned to it in sub-section (*2*) of section 80MM;';

(*b*) in clause (*iii*),—

(*i*) for sub-clause (*1*), the following sub-clauses shall be substituted, namely:—

"(*1*) in the case of an industrial company or a consultancy service company .. 45%;

(*2*) in the case of an investment company other than an investment company which falls under sub-clause (*3*) of this clause .. 90%;";

(*ii*) in sub-clause (*3*), for the portion beginning with the words "in the case of an Indian company" and ending with the words "attributable to such business .. Nil;",

the following shall be substituted, namely:—

"in the case of an Indian company, not being an industrial company or a consultancy service company, a part of whose gross total income consists of profits and gains attributable to the business of provision of technical know-how, or of rendering services in connection with the provision of technical know-how, to other persons, or of construction of ships or of manufacture or processing of goods or of mining or of generation or distribution of electricity or any other form of power—

(*a*) in relation to the said part of its gross total income .. 45%;";

(*iii*) for the *Explanation* below sub-clause (3), the following *Explanation* shall be substituted, namely:—

"*Explanation.*—The provisions of this Chapter shall apply as if the aforesaid two parts of the gross total income of the company were respectively the gross total income of the company in relation to each such part and as if the amount of dividends actually distributed and the distributable income were also similarly apportioned for the purposes of section 104 and this section;".

Amendment of section 124.

29. In sub-section (2) of section 124 of the Income-tax Act, for the portion beginning with the words "and shall perform such functions" and ending with the words "work to be performed.", the following shall be substituted, namely:—

"and shall perform their functions in relation to the said area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, in accordance with such general or special orders in writing as the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions.".

Amendment of section 125.

30. In sub-section (1) of section 125 of the Income-tax Act, in the proviso,—

(*i*) after the figures and letter "132A,", the figures and letter "132B," shall be inserted;

(*ii*) for the words, figures and brackets "and 271 to 274 (both inclusive)", the figures, words and brackets ", 271 to 273 (both inclusive) and 274" shall be substituted.

Insertion of new section 125A.

31. After section 125 of the Income-tax Act, the following section shall be inserted, namely:—

Concurrent jurisdiction of Inspecting Assistant Commissioner and Income-tax Officer.

"125A. (1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on, or assigned to, the Income-tax Officer or Income-tax Officers by or under this Act in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed concurrently by the Inspecting Assistant Commissioner.

(2) Where under sub-section (1), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Income-tax Officers in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, the Income-tax Officer or Income-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (3) of section 119, every Income-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act:

Provided that no instructions, which are prejudicial to the assessee, shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(*4*) Where an order is made under sub-section (*1*) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of an Income-tax Officer in relation to any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, references in this Act or in any rule made thereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be construed as references to the Inspecting Assistant Commissioner and the Commissioner respectively and, accordingly:—

(*i*) any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(*ii*) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner;

(*iii*) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner.".

Amendment of section 127.

32. In section 127 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:—

(*a*) any Income-tax Officer or Income-tax Officers;

(*b*) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) also subordinate to him and the Board may similarly transfer any case from—

(*i*) any Income-tax Officer or Income-tax Officers, or

(*ii*) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner):

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to any other Income-tax Officer or Income-tax Officers

(whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) and the offices of all such officers are situated in the same city, locality or place:

Provided further that—

(*a*) where any case has been transferred from any Income-tax Officer or Income-tax Officers to two or more Income-tax Officers, the Income-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions;

(*b*) where any case has been transferred from any Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to two or more Income-tax Officers with concurrent jurisdiction with the Inspecting Assistant Commissioner, the officers (including the Inspecting Assistant Commissioner) to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions, and the Income-tax Officers shall perform their functions also in accordance with such orders or directions as the Inspecting Assistant Commissioner may make under sub-section (*2*) of section 124 or, as the case may be, under sub-section (*2*) of section 125A.".

33. In section 130A of the Income-tax Act, after clause (*b*), the following clause shall be inserted, namely:—

"(c) in a case, where two or more Income-tax Officers have concurrent jurisdiction over such assessee in relation to any function, be the Income-tax Officers empowered to perform such function by the Board or, as the case may be, the Income-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under sub-section (*2*) of section 124 or, as the case may be, under sub-section (*2*) of section 125A.".

34. In section 131 of the Income-tax Act,—

(*i*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If the Assistant Director of Inspection has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purpose of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (*1*) on the Income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other Income-tax authority.";

(*ii*) in sub-section (3),—

(*a*) in the opening paragraph, after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*b*) in the proviso, for the words "an Income-tax Officer", the words "an Income-tax Officer or an Assistant Director of Inspection" shall be substituted.

Amendment of section 132.

35. In section 132 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in the opening paragraph, for the words "Where the Director of Inspection or the Commissioner,", the following shall be substituted, namely:—

"Where the Director of Inspection or the Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board,";

(*ii*) in clause (*c*), for the words "which has not been disclosed", the words "which has not been, or would not be, disclosed" shall be substituted;

(*iii*) for the portion beginning with the words "he may authorise" and ending with the brackets and words "(hereinafter referred to as the authorised officer) to—", the following shall be substituted, namely:—

"then,—

(*A*) the Director of Inspection or the Commissioner, as the case may be, may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer; or

(*B*) such Deputy Director of Inspection or Inspecting Assistant Commissioner, as the case may be, may authorise any Assistant Director of Inspection or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—";

(*iv*) in clause (*i*), for the words "building or place", the words "building, place, vessel, vehicle or aircraft" shall be substituted;

(*v*) after clause (*ii*), the following clause shall be inserted, namely:—

"(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;";

(*vi*) the following proviso shall be inserted at the end, namely:—

"Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of

jurisdiction of any Commissioner, but such Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section 121, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue.";

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Where any Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the Director of Inspection or any other Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board to take action under clauses (*i*) to (*v*) of sub-section (*1*) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (*1*), such Commissioner may, notwithstanding anything contained in section 121, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.";

(*c*) in sub-section (*2*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*d*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.";

(*e*) in sub-section (*5*),—

(*i*) for the opening paragraph, the following shall be substituted, namely:—

"Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) is seized under sub-section (*1*) or sub-section (*1A*), the Income-tax Officer, after affording a reasonable opportunity to the person concerned of being heard and making such enquiry as may be prescribed, shall, within ninety days of the seizure, make an order, with the previous approval of the Inspecting Assistant Commissioner,—";

(*ii*) after clause (*ii*), the following clause shall be inserted, namely:—

"(*iia*) determining the amount of interest payable and the amount of penalty imposable in accordance with the provisions of the Indian Income-tax Act, 1922 or this Act, as if the order had been the order of regular assessment;"; 11 of 1922.

(*iii*) for the words, brackets and figures "clauses (*ii*) and (*iii*)", at both the places where they occur, the words, brackets, figures and letter "clauses (*ii*), (*iia*) and (*iii*)" shall be substituted;

(*iv*) in the first proviso, after the words "the financial year in which the assets were seized", the words "and may also determine the interest or penalty, if any, payable or imposable accordingly" shall be inserted;

(*f*) in sub-section (*6*), for the word, figures and letter "section 132A", the word, figures and letter "section 132B" shall be substituted;

(*g*) in sub-section (*8*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*h*) in sub-section (*9*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*i*) after sub-section (*9*), the following sub-section shall be inserted, namely:—

"(*9A*) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*), the books of account or other documents or assets seized under that sub-section shall be handed over by the authorised officer to the Income-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (*8*) or sub-section (*9*) shall be exercisable by such Income-tax Officer.";

(*j*) in sub-section (*10*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*k*) for sub-section (*13*), the following sub-section shall be substituted, namely:—

"(*13*) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (*1*) or sub-section (*1A*).";

2 of 1974.

(*l*) in sub-section (*14*), in clause (*i*), for the words "such building or place", the words "any building, place, vessel, vehicle or aircraft" shall be substituted.

Amendment of section 132A.

36. Section 132A of the Income-tax Act shall be re-numbered as section 132B thereof, and—

(*i*) before that section as so re-numbered, the following section shall be inserted, namely:—

Powers to requisition books of account, etc.

'132A. (*1*) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (*1*) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (*1*) of section 131 of this Act, or a notice under sub-section (*4*) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (*1*) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

11 of 1922.

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

11 of 1922.

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

11 of 1922.

then, the Director of Inspection or the Commissioner may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer [hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer] to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (c), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

(*2*) On a requisition being made under sub-section (*1*), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(*3*) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (*4A*) to (*14*) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (*1*) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (c), as the case may be, of sub-section (*1*) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (*4A*) to (*14*), the words "the requisitioning officer" were substituted.';

(*ii*) in section 132B as so re-numbered, in sub-section (*1*), in clause (*i*), after the word "relates", the brackets and words "(including any penalty levied or interest payable in connection with such assessment or re-assessment)" shall be inserted.

Substitution of new section for section 133A.

37. For section 133A of the Income-tax Act, the following section shall be substituted, namely:—

Power of survey.

'133A. (*1*) Notwithstanding anything contained in any other provision of this Act, an Income-tax authority may enter—

(*a*) any place within the limits of the area assigned to him, or

(*b*) any place occupied by any person in respect of whom he exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(*ii*) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(*iii*) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.—For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

(*2*) An Income-tax authority may enter any place of business or profession referred to in sub-section (*1*) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

(*3*) An Income-tax authority acting under this section may,—

(*i*) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

(*ii*) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(*iii*) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

(*4*) An Income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

(*5*) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the Income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the Income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(*6*) If a person under this section is required to afford facility to the Income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the Income-tax

authority shall have all the powers under sub-sections (*1*) and (*2*) of section 131 for enforcing compliance with the requirement made.

Explanation.—In this section,—

(*a*) "Income-tax authority" means an Inspecting Assistant Commissioner, an Assistant Director of Inspection or an Income-tax Officer, and for the purposes of clause (*i*) of sub-section (*1*), clause (*i*) of sub-section (*3*) and sub-section (*5*), includes an Inspector of Income-tax, if so authorised by the Income-tax Officer;

(*b*) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.'.

Amendment of section 139.

38. In section 139 of the Income-tax Act,—

(*i*) in sub-section (*2*), for the words "serve a notice upon him", the words "issue a notice to him and serve the same upon him" shall be substituted;

(*ii*) for sub-section (*6*), the following sub-sections shall be substituted, namely:—

"(*6*) The prescribed form of the returns referred to in sub-sections (*1*), (*2*) and (*3*) shall, in such cases as may be prescribed, require the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value and belonging to him, expenditure exceeding the prescribed limits incurred by him under prescribed heads and such other outgoings as may be prescribed.

(*6A*) Without prejudice to the provisions of sub-section (*6*), the prescribed form of the returns referred to in sub-sections (*1*), (*2*) and (*3*) shall, in the case of an assessee engaged in any business or profession, also require him to furnish particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.".

39. After section 139 of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 139A.

'139A. (1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during any accounting year exceeded the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number. Permanent account numbers.

(2) Notwithstanding anything contained in sub-section (1), every person not falling under that sub-section, but carrying on any business whose total sales, turnover or gross receipts are or is likely to exceed fifty thousand rupees in any accounting year and who has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number.

(3) The Income-tax Officer may also allot to any other person by whom tax is payable, a permanent account number.

(4) All permanent account numbers allotted to assessees before the commencement of the Taxation Laws (Amendment) Act, 1975 shall, with effect from such date as the Board may, by notification in the Official Gazette, specify, be deemed to have been allotted to them under the provisions of this section.

(5) Where a permanent account number has been allotted or is deemed to have been allotted to any person under this section, he shall—

(a) quote such number in all his returns to, or correspondence with, any Income-tax authority;

(b) quote such number in all challans for the payment of any sum due under this Act;

(c) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him;

(d) intimate the Income-tax Officer any change in his address or in the name and nature of his business.

(6) The Board may make rules providing for—

(a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;

(b) the categories of transactions in relation to which permanent account numbers shall be quoted by the persons to whom such numbers have been allotted, in the documents pertaining to such transactions.

Explanation.—In this section,—

(a) "accounting year" means,—

(i) in relation to a person maintaining accounts, the year ending on the day on which such accounts are or are to be closed and balanced;

(*ii*) in relation to any other person, the financial year;

(*b*) "permanent account number" means a number which the Income-tax Officer may allot to any person for the purpose of indentification.'.

Amendment of section 140.

40. In section 140 of the Income-tax Act, for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*c*) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return, or where there is no managing director, by any director thereof;

(*cc*) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(*d*) in the case of a local authority, by the principal officer thereof;".

Amendment of section 140A.

41. In section 140A of the Income-tax Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Where any tax is payable on the basis of any return required to be furnished under section 139 or section 148, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax.";

(*ii*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (*1*), the Income-tax Officer may direct that a sum equal to two per cent. of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.".

Amendment of section 141A.

42. In section 141A of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to have been paid under the provisions of Chapter XVII-B, or Chapter XVII-C, exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Income-tax Officer, if he is of the opinion that the regular assessment of the assessee is not likely to be made within six months from the date of furnishing of the return, shall make in a summary manner within the said six months a provisional assessment of the sum refundable to the assessee, after

making such adjustments to the income or loss declared in the return as are required to be made under sub-section (*2*) with reference to such return, accounts and documents, and for the purposes of the adjustments referred to in clause (*iv*) of sub-section (*2*), also with reference to the records of the assessments, if any, of past years.".

Amendment of section 142.

43. In section 142 of the Income-tax Act,—

(*i*) in sub-section (*1*), for the words, brackets and figures "or upon whom a notice has been served under sub-section (*2*) of section 139", the words, brackets and figures "or to whom a notice has been issued under sub-section (*2*) of section 139" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) If, at any stage of the proceedings before him, the Income-tax Officer, having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Commissioner, direct the assessee to get the accounts audited by an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, nominated by the Commissioner in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and such other particulars as the Income-tax Officer may require.

(*2B*) The provisions of sub-section (*2A*) shall have effect notwithstanding that the accounts of the assessee have been audited under any other law for the time being in force or otherwise.

(*2C*) Every report under sub-section (*2A*) shall be furnished by the assessee to the Income-tax Officer within such period as may be specified by the Income-tax Officer:

Provided that the Income-tax Officer may, on an application made in this behalf by the assessee and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (*2A*) is received by the assessee.

(*2D*) The expenses of, and incidental to, any audit under sub-section (*2A*) (including the remuneration of the accountant) shall be determined by the Commissioner (which determination shall be final) and paid by the assessee and in default of such payment, shall be recoverable from the assessee in the manner provided in Chapter XVII-D for the recovery of arrears of tax.";

(*iii*) in sub-section (*3*), after the words, brackets and figure "under sub-section (*2*)", the words, brackets, figure and letter "or any audit under sub-section (2A)" shall be inserted.

Amendment of section 144.

44. In section 144 of the Income-tax Act, in clause (*b*), after the words, brackets and figures "sub-section (*1*) of section 142", the words, brackets, figure and letter "or fails to comply with a direction issued under sub-section (*2A*) of that section" shall be inserted.

Insertion of new sections 144A and 144B.

45. After section 144 of the Income-tax Act, the following sections shall be inserted, namely:—

Power of Inspecting Assistant Commissioner to issue directions in certain cases.

"144A. (*1*) An Inspecting Assistant Commissioner may, on his own motion or on a reference being made to him by the Income-tax Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the Income-tax Officer to enable him to complete the assessment and such directions shall be binding on the Income-tax Officer:

Provided that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee.

(*2*) The provisions of this section shall be in addition to, and not in derogation of, the provisions contained in sub-section (*3*) of section 119.

Reference to Inspecting Assistant Commissioner in certain cases.

144B. (*1*) Notwithstanding anything contained in this Act, where, in an assessment to be made under sub-section (*3*) of section 143, the Income-tax Officer proposes to make any variation in the income or loss returned which is prejudicial to the assessee and the amount of such variation exceeds the amount fixed by the Board under sub-section (6), the Income-tax Officer shall, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the assessee.

(*2*) On receipt of the draft order, the assessee may forward his objections, if any, to such variation to the Income-tax Officer within seven days of the receipt by him of the draft order or within such further period not exceeding fifteen days as the Income-tax Officer may allow on an application made to him in this behalf.

(*3*) If no objections are received within the period or the extended period aforesaid, or the assessee intimates to the Income-tax Officer the acceptance of the variation, the Income-tax Officer shall complete the assessment on the basis of the draft order.

(*4*) If any objections are received, the Income-tax Officer shall forward the draft order together with the objections to the Inspecting Assistant Commissioner and the Inspecting Assistant Commissioner shall, after considering the draft order and the objections and

after going through (wherever necessary) the records relating to the draft order, issue, in respect of the matters covered by the objections, such directions as he thinks fit for the guidance of the Income-tax Officer to enable him to complete the assessment:

Provided that no directions which are prejudicial to the assessee shall be issued under this sub-section before an opportunity is given to the assessee to be heard.

(5) Every direction issued by the Inspecting Assistant Commissioner under sub-section (4) shall be binding on the Income-tax Officer.

(6) For the purposes of sub-section (1), the Board may, having regard to the proper and efficient management of the work of assessment, by order, fix, from time to time, such amount as it deems fit:

Provided that different amounts may be fixed for different areas:

Provided further that the amount fixed under this sub-section shall, in no case, be less than twenty-five thousand rupees.

(7) Nothing in this section shall apply to a case where an Inspecting Assistant Commissioner exercises the powers or performs the functions of an Income-tax Officer in pursuance of an order made under section 125 or section 125A.".

Amendment of section 146.

46. Section 146 of the Income-tax Act shall be re-numbered as sub-section (1) thereof, and after that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Every application made under sub-section (1) shall be disposed of within ninety days from the date of receipt thereof by the Income-tax Officer:

Provided that in computing the period of ninety days aforesaid, any delay in disposing of the application which is attributable to the assessee shall be excluded.".

Amendment of section 153.

47. In section 153 of the Income-tax Act, for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

"*Explanation* 1.—In computing the period of limitation for the purposes of this section—

(i) the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129, or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, or

(iii) the period commencing from the date on which the Income-tax Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with the date on which the assessee furnishes a report of such audit under that sub-section, or

(iv) the period (not exceeding one hundred and eighty days) commencing from the date on which the Income-tax Officer forwards the draft order under sub-section (1) of section 144B to the assessee and ending with the date on which the Income-tax Officer receives the directions from the Inspecting Assistant

Commissioner under sub-section (4) of that section, or, in a case where no objections to the draft order are received from the assessee, a period of thirty days, or

(*v*) in a case where an application made before the Income-tax Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section (*1*) of section 245D is received by the Commissioner under sub-section (*2*) of that section,

shall be excluded.".

Amendment of section 154.

48. In sub-section (*1*) of section 154 of the Income-tax Act, clause (*bb*) shall be omitted.

Amendment of section 176.

49. In section 176 of the Income-tax Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.".

Amendment of section 179.

50. For the existing sub-heading "*M-Private company in liquidation*" before section 179 of the Income-tax Act, the sub-heading "*M-Private companies*" shall be substituted and that section shall be re-numbered as sub-section (*1*) thereof and,—

(*a*) in sub-section (*1*) as so re-numbered, for the portion beginning with the word "Notwithstanding" and ending with the words "any previous year", the following shall be substituted, namely:—

"Notwithstanding anything contained in the Companies Act, 1956, where any tax due from a private company in respect of any income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company"; 1 of 1956.

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Where a private company is converted into a public company and the tax assessed in respect of any income of any previous year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (*1*) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any assessment year commencing before the 1st day of April, 1962.".

Amendment of section 185.

51. In section 185 of the Income-tax Act, in sub-section (*1*), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"*Explanation.*—For the purposes of this section and section 186, a firm shall not be regarded as a genuine firm if any partner of the firm was, in relation to the whole or any part of his share in the

income or property of the firm, at any time during the previous year, a *benamidar*—

(*a*) of any other partner to whom the first-mentioned partner does not stand in the relationship of a spouse or minor child, or

(*b*) of any person, not being a partner of the firm, and any of the other partners knew or had reason to believe that the first-mentioned partner was such *benamidar* and such knowledge or belief had not been communicated by such other partner to the Income-tax Officer in the prescribed manner.".

Amendment of section 189.

52. In section 189 of the Income-tax Act, in sub-section (*3*), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—The amount of tax referred to in this sub-section shall also include that part of the share of each partner in the income of the firm before its discontinuance or dissolution which the firm could have retained under sub-section (*4*) of section 182 but which has not been so retained.".

Amendment of section 221.

53. In sub-section (*1*) of section 221 of the Income-tax Act, after the second proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.".

Amendment of section 222.

54. In sub-section (*1*) of section 222 of the Income-tax Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purposes of this sub-section, the assessee's movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the assessee's movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.".

Amendment of section 223.

55. In section 223 of the Income-tax Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer to whom a certificate is sent by an Income-tax Officer—

(*a*) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(*b*) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property, and thereupon that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or the copy thereof had been the certificate sent to him by the Income-tax Officer.".

Amendment of section 244.

56. In section 244 of the Income-tax Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Where the whole or any part of the refund referred to in sub-section (*1*) is due to the assessee, as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (*1*) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted:

Provided that, where the amount so found to be in excess was paid in instalments, such interest shall be payable on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted:

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (*1*) shall be payable to him in respect of the amount so found to be in excess.".

Insertion of new Chapter XIXA.

57. After Chapter XIX of the Income-tax Act, the following Chapter shall be inserted, namely:—

'CHAPTER XIXA

SETTLEMENT OF CASES

Definitions.

245A. In this Chapter, unless the context otherwise requires,—

(*a*) "case" means any proceeding under the Indian Income-tax Act, 1922, or under this Act for or in connection with the assessment or re-assessment of any person in respect of any year or years which may be pending before an Income-tax authority on the date on which an application under sub-section (*1*) of section 245C is made; 11 of 1922.

(*b*) "Income-tax authority" means a Director of Inspection, a Commissioner, an Appellate Assistant Commissioner, an Inspecting Assistant Commissioner or an Income-tax Officer.

Income-tax Settlement Commission.

245B. (*1*) The Central Government shall constitute a commission to be called the Income-tax Settlement Commission (hereafter in this Chapter referred to as "the Settlement Commission") for the settlement of cases under this Chapter.

(*2*) The Settlement Commission shall consist of a Chairman and two other members and shall function within the Department of the Central Government dealing with direct taxes.

(*3*) The Chairman and other members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, problems relating to direct taxes and business accounts:

Provided that, where a member of the Board is appointed as the Chairman or as a member of the Settlement Commission, he shall cease to be a member of the Board:

Provided further that, until the members are appointed under this sub-section, it shall be competent for the Central Government to require, from time to time, any two members of the Board to serve as members of the Settlement Commission for such period as the Central Government thinks fit, in addition to their duties as members of the Board.

Application for settlement of cases.

245C. (*1*) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(*2*) Every application made under sub-section (*1*) shall be accompanied by such fees as may be prescribed.

(*3*) An application made under sub-section (*1*) shall not be allowed to be withdrawn by the applicant.

Procedure on receipt of an application under section 245C.

245D. (*1*) On receipt of an application under section 245C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided further that an application shall not be proceeded with under this sub-section if the Commissioner objects to the application being proceeded with on the ground that concealment of particulars of income on the part of the applicant or perpetration of fraud by him for evading any tax or other sum chargeable or imposable under the Indian Income-tax Act, 1922, or under this Act, has been established or is likely to be established by any Income-tax authority, in relation to the case.

11 of 1922.

(*2*) A copy of every order under sub-section (*1*) shall be sent to the applicant and to the Commissioner.

(3) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(4) After examination of the records and the report of the Commissioner, received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner under sub-section (1) or sub-section (3).

(5) The materials brought on record before the Settlement Commission shall be considered by all the members thereof before passing any order under sub-section (4) and, in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority.

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(7) Where a settlement becomes void as provided under sub-section (6), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Income-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

Power of Settlement Commission to reopen completed proceedings.

245E. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under the Indian Income-tax Act, 1922, or under this Act by any Income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also: 11 of 1922.

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of a period of eight years from the end of the assessment year to which such proceeding relates.

Powers and procedure of Settlement Commission.

245F. (*1*) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an Income-tax authority under this Act.

(*2*) Where an application made under section 245C has been allowed to be proceeded with under section 245D, the Settlement Commission shall, until an order is passed under sub-section (*4*) of section 245D, have, subject to the provisions of sub-section (*3*) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an Income-tax authority under this Act in relation to the case.

(*3*) Notwithstanding anything contained in sub-section (*2*) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment or by way of advance tax in relation to the matters before the Settlement Commission.

(*4*) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(*5*) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure (including the fixation of places and times of its meetings) and may act notwithstanding that all the members of the Settlement Commission are not present at any of its meetings.

Inspection, etc., of reports.

245G. No person shall be entitled to inspect, or obtain copies of, any reports made by any Income-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Power of Settlement Commission to grant immunity from

245H. (*1*) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the

pro-secution and penalty.

Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act, with respect to the case covered by the settlement. 45 of 1860.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person has not complied with the conditions subject to which the immunity was granted or that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

Order of settlement to be conclusive.

245I. Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Recovery of sums due under order of settlement.

245J. Any sum specified in an order of settlement passed under sub-section (4) of section 245D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the person who made the application for settlement under section 245C.

Bar on subsequent application for settlement in certain cases.

245K. Where,—

(i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or

(ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case,

then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

Proceedings before Settlement Commission to be judicial proceedings.

245L. Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code. 45 of 1860.

Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

245M. (*1*) Notwithstanding anything contained in this Chapter, any assessee who has filed an appeal to the Appellate Tribunal under this Act which is pending before it shall, on withdrawing such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled under this Chapter.

Provided that no such assessee shall be entitled to make an application in a case where the Income-tax Officer has preferred an appeal under sub-section (*2*) of section 253 against the order to which the application is made to the date on which the order

(*2*) Any assessee referred to in sub-section (*1*) may make an application to the Appellate Tribunal for permission to withdraw the appeal.

(3) On receipt of an application under sub-section (*2*), the Appellate Tribunal shall grant permission to withdraw the appeal.

(4) Upon the withdrawal of the appeal, the immediately before such withdrawal shall, for Chapter, be deemed to be a proceeding pend tax authority.

(5) An application to the Settlement Commission under this section shall be made within a period of thirty days from the date on which the order of the Appellate Tribunal permitting the withdrawal of the appeal is communicated to the assessee.

(6) An application made to the Settlement Commission under this section shall be deemed to be an application made under sub-section (*1*) of section 245C and the provisions of this Chapter [except sub-section (7) of section 245D] shall apply accordingly.

(7) Where an application made to the Settlement Commission under this section is not entertained by the Settlement Commission, then, the assessee shall not be deemed to have withdrawn the appeal from the Appellate Tribunal and the provisions contained in section 253, section 254 and section 255 shall, so far as may be, apply accordingly.'.

Amendment of section 246.

58. In section 246 of the Income-tax Act, in clause (*a*),—

(*i*) after sub-clause (*iii*), the following sub-clause shall be inserted, namely:—

"(*iiia*) section 271A, or";

(*ii*) after sub-clause (*iv*), the following sub-clause shall be inserted, namely:—

(*iva*) section 272B, or"

Amendment of section 249.

59. In section 249 of the Income-tax Act,—

(*i*) in sub-section (2), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty:

Provided that, where an application has been made under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be excluded, or";

(*ii*) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(*a*) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(*b*) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:

Provided that, on an application made by the appellant in this behalf, the Appellate Assistant Commissioner may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of this sub-section.".

Amendment of section 253.

60. In section 253 of the Income-tax Act, in sub-section (1),—

(*i*) in clause (*a*), for the words and figures "or section 271", the words, figures and letters ", section 271, section 271A or section 272A" shall be substituted;

(*ii*) in clause (*b*), for the words, brackets and figures "sub-section (2) of section 274", the word, figures and letter "section 272A" shall be substituted;

(*iii*) in clause (*c*), after the words and figures "under section 263", where they occur for the first time, the words, figures and letter "or under section 272A" shall be inserted.

Amendment of section 271.

61. In section 271 of the Income-tax Act,—

(*i*) in sub-section (1),—

(*a*) in clause (*b*), after the words, brackets and figures "sub-section (2) of section 143", the words, brackets, figures and letter "or fails to comply with a direction issued under sub-section (2A) of section 142" shall be inserted;

(*b*) for clause (*i*) (excluding the *Explanation* thereto), the following clause shall be substituted, namely:—

"(*i*) in the cases referred to in clause (*a*),—

(*a*) in the case of a person referred to in sub-section (4*A*) of section 139, where the total income in respect of which he is assessable as a representative assessee does not exceed the maximum amount which is not chargeable to income-tax, a sum not exceeding one per cent. of the total income computed under this Act without giving effect to the provisions of sections 11 and 12, for each year or part thereof during which the default continued;

(*b*) in any other case, in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued;";

(c) for clause (*iii*) and the *Explanation*, the following clause and *Explanations* shall be substituted, namely:—

'(*iii*) in the cases referred to in clause (*c*), in addition to any tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of the concealment of particulars of his income or the furnishing of inaccurate particulars of such income:

Provided that, if in a case falling under clause (*c*), the amount of income (as determined by the Income-tax Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the Income-tax Officer shall not issue any direction for payment by way of penalty without the previous approval of the Inspecting Assistant Commissioner.

Explanation 1.—Where in respect of any facts material to the computation of the total income of any person under this Act,—

(*A*) such person fails to offer an explanation or offers an explanation which is found by the Income-tax Officer or the Appellate Assistant Commissioner to be false, or

(*B*) such person offers an explanation which he is not able to substantiate,

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (*c*) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed:

Provided that nothing contained in this *Explanation* hall apply to a case referred to in clause (B) in respect of ny amount added or disallowed as a result of the rejection f any explanation offered by such person, if such explaation is *bona fide* and all the facts relating to the same and aterial to the computation of his total income have been isclosed by him.

Explanation 2.—Where the source of any receipt, depoit, outgoing or investment in any assessment year is laimed by any person to be an amount which had been dded in computing the income or deducted in computing he loss in the assessment of such person for any earlier ssessment year or years but in respect of which no penalty nder clause (*iii*) of this sub-section had been levied, that art of the amount so added or deducted in such earlier ssessment year immediately preceding the year in which he receipt, deposit, outgoing or investment appears (such arlier assessment year hereafter in this *Explanation* refered to as the first preceding year) which is sufficient to over the amount represented by such receipt, deposit or utgoing or value of such investment (such amount or value ereafter in this *Explanation* referred to as the utilised mount) shall be treated as the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the first preceding year; and where the amount so added or deducted in the irst preceding year is not sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years.

Explanation 3.—Where any person who has not previously been assessed under the Indian Income-tax Act, 1922, or under this Act, fails, without reasonable cause, to furnish within the period specified in sub-clause (*iii*) of clause (*a*) of sub-section (*1*) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1974, and, until the expiry of the period aforesaid, no notice has been issued to him under sub-section (2) of section 139 or section 148 and the Income-tax Officer or the Appellate Assistant Commissioner is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (*c*) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.

Explanation 4.—For the purposes of clause *(iii)* of this sub-section, the expression "the amount of tax sought to be evaded",—

(*a*) in any case where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds the total income assessed, means the tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;

(*b*) in any case to which *Explanation 3* applies, means the tax on the total income assessed;

(*c*) in any other case, means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished.";

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (*1*), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (*1*) have been completed.";

(*iii*) in sub-section (*3*), after clause (*c*), the following clause and proviso shall be inserted, namely:—

"(*d*) the penalty imposed under clause (*i*) of sub-section (*1*) and the penalty imposed under clause (*iii*) of that sub-section, read with *Explanation 3* thereto, shall not exceed in the aggregate twice the amount of the tax sought to be evaded:

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to a case referred to in sub-clause (*a*) of clause (*i*) of sub-section (*1*).";

(*iv*) sub-sections (*4A*) and (*4B*) shall be omitted.

Insertion of new section 271A.

62. After section 271 of the Income-tax Act, the following section shall be inserted, namely:—

Failure to keep, maintain or retain books of account, documents, etc.

"**271A.** Without prejudice to the provisions of section 271, if any person, without reasonable cause, fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the Income-tax Officer or the Appellate Assistant Commissioner may direct that such person shall pay, by way of penalty, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the

tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income.".

Insertion of new sections 272A and 272B.

63. After section 272 of the Income-tax Act, the following sections shall be inserted, namely:—

Penalty for failure to answer questions, sign statements, allow inspections, etc.

"272A. (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by an Income-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceeding under this Act which an Income-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person, without reasonable cause or excuse, fails,—

(a) to furnish in due time any of the returns or statements mentioned in section 133, section 206, section 285, section 285B or section 286; or

(b) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(c) to furnish a certificate as required by section 203; or

(d) to deduct and pay tax as required by sub-section (2) of section 226,

he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed,—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before the Commissioner or the Appellate

Assistant Commissioner, by the Commissioner or, as the case may be, the Appellate Assistant Commissioner; and

(*b*) in any other case, by the Inspecting Assistant Commissioner.

(*4*) No order under this section shall be passed by any officer referred to in sub-section (*3*) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.

Penalty for failure to comply with the provisions of section 139A.

272B. (*1*) If a person, without reasonable cause, fails to comply with the provisions of section 139A, he shall, on an order passed by the Income-tax Officer, pay, by way of penalty, a sum which may extend to five hundred rupees.

(*2*) No order under sub-section (*1*) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter.".

Insertion of new section 273A.

64. After section 273 of the Income-tax Act, the following section shall be inserted, namely:—

Power to reduce or waive penalty, etc., in certain cases.

"273A. (*1*) Notwithstanding anything contained in this Act, the Commissioner may, in his discretion, whether on his own motion or otherwise,—

(*i*) reduce or waive the amount of penalty imposed or imposable on a person under clause (*i*) of sub-section (*1*) of section 271 for failure, without reasonable cause, to furnish the return of total income which he was required to furnish under sub-section (*1*) of section 139; or

(*ii*) reduce or waive the amount of penalty imposed or imposable on a person under clause (*iii*) of sub-section (*1*) of section 271; or

(*iii*) reduce or waive the amount of interest paid or payable under sub-section (*8*) of section 139 or section 215 or section 217 or the penalty imposed or imposable under section 273,

if he is satisfied that such person—

(*a*) in the case referred to in clause (*i*), has, prior to the issue of a notice to him under sub-section (*2*) of section 139, voluntarily and in good faith made full and true disclosure of his income;

(*b*) in the case referred to in clause (*ii*), has, prior to the detection by the Income-tax Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars;

(*c*) in the cases referred to in clause (*iii*), has, prior to the issue of a notice to him under sub-section (*2*) of section 139, or where no such notice has been issued and the period for the issue of such notice has expired, prior to the issue of notice to him under section 148, voluntarily and in good faith made full and true disclosure of his income and has paid the tax on the income so disclosed.

and also has, in all the cases referred to in clauses (*a*), (*b*) and (*c*), co-operated in any enquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of clause (*c*) of sub-section (*1*) of section 271.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) if in a case the penalty imposed or imposable under clause (*i*) of sub-section (*1*) of section 271 or the minimum penalty imposable under section 273 for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate of the penalty imposed or imposable under the said clause or of the minimum penalty imposable under the said section for those years, exceeds a sum of fifty thousand rupees, or

(*b*) if in a case falling under clause (*c*) of sub-section (*1*) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

no order reducing or waiving the penalty under sub-section (*1*) shall be made by the Commissioner except with the previous approval of the Board.

(*3*) Where an order has been made under sub-section (*1*) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order.

(*4*) Without prejudice to the powers conferred on him by any other provision of this Act, the Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(*i*) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case; and

(*ii*) the assessee has co-operated in any enquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(*5*) Every order made under this section shall be final and shall not be called into question by any court or any other authority.".

65. In section 274 of the Income-tax Act, sub-section (*2*) shall be omitted. Amendment of section 274.

66. In section 275 of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:— Amendment of section 275.

"*Explanation.*—In computing the period of limitation for the purposes of this section,—

(*i*) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129;

(*ii*) any period during which the immunity granted under section 245H remained in force; and

(*iii*) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.".

67. Section 276 of the Income-tax Act shall be omitted. Omission of section 276.

68. For sections 276B and 276C of the Income-tax Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 276B and 276C.

"276B. If a person, without reasonable cause or excuse, fails to deduct or after deducting, fails to pay the tax as required by or under the provisions of sub-section (*9*) of section 80E or Chapter XVII-B, he shall be punishable,— Failure to deduct or pay tax.

(*i*) in a case where the amount of tax which he has failed to deduct or pay exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

276C. (*1*) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,— Wilful attempt to evade tax, etc.

(*i*) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

(*2*) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this

Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(*i*) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(*ii*) makes or causes to be made any false entry or statement in such books of account or other documents; or

(*iii*) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(*iv*) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

Failure to furnish returns of income.

276CC. If a person wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (*1*) of section 139 or by notice given under sub-section (*2*) of section 139 or section 148, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (*1*) of section 139—

(*i*) for any assessment year commencing prior to the 1st day of April, 1975; or

(*ii*) for any assessment year commencing on or after the 1st day of April, 1975, if—

(*a*) the return is furnished by him before the expiry of the assessment year; or

(*b*) the tax payable by him on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees.".

Amendment of section 276D.

69. In section 276D of the Income-tax Act, after the words "such accounts and documents as are referred to in the notice", the words, brackets, figure and letter "or wilfully fails to comply with a direction issued to him under sub-section (*2A*) of that section" shall be inserted.

Substitution of new sections for sections 277 and 278.

70. For sections 277 and 278 of the Income-tax Act, the following sections shall be substituted, namely:—

False statement in verification, etc.

'277. If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Abetment of false return, etc.

278. If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (*1*) of section 276C, he shall be punishable,—

(*i*) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Punishment for second and subsequent offences.

278A. If any person convicted of an offence under section 276B or sub-section (*1*) of section 276C or section 276CC or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Offences by companies.

278B. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is

proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate, and includes—

(*i*) a firm, and

(*ii*) an association of persons or a body of individuals whether incorporated or not; and

(*b*) "director", in relation to—

(*i*) a firm, means a partner in the firm;

(*ii*) any association of persons or a body of individuals, means any member controlling the affairs thereof.

Offences by Hindu undivided families.

278C. (*1*) Where an offence under this Act has been committed by a Hindu undivided family, the *Karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *Karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Presumption as to assets, books of account, etc., in certain cases.

278D. (*1*) Where during the course of any search made under section 132, any money, bullion, jewellery or other valuable article or thing (hereafter in this section referred to as the assets) or any books of account or other documents has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (*4A*) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.

(*2*) Where any assets or books of account or other documents taken into custody, from the possession or control of any person, by the officer or authority referred to in clause (*a*) or clause (*b*) or clause (c), as the case may be, of sub-section (*1*) of section 132A are delivered to the requisitioning officer under sub-section (*2*) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (*4A*) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents.'.

71. In section 279 of the Income-tax Act,— Amendment of section 279.

(*i*) for sub-sections (*1*) and (*1A*), the following sub-sections shall be substituted, namely:—

"(*1*) A person shall not be proceeded against for an offence under section 275A, section 276A, section 276B, section 276C, section 276CC, section 276D, section 277, section 278 or section 278A except at the instance of the Commissioner.

(*1A*) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under clause (*iii*) of sub-section (*1*) of section 271 has been reduced or waived by an order under section 273A.";

(*ii*) in sub-section (*3*), for the words, brackets, figures and letter "under sub-section (*4A*) of section 271", the words, figures and letter "under section 273A" shall be substituted.

72. After section 279 of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 279A.

"279A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 276B or section 276C or section 276CC or section 277 or section 278 shall be deemed to be non-cognizable within the meaning of that Code.". Certain offences to be non-cognizable.

2 of 1974.

73. For section 281 of the Income-tax Act, the following section shall be substituted, namely:— Substitution of new section for section 281.

'281. (*1*) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise: Certain transfers to be void.

Provided that such charge or transfer shall not be void if it is made—

(*i*) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(*ii*) with the previous permission of the Income-tax Officer.

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock in trade of the business of the assessee.'.

Insertion of new section 281B.

74. After section 281A of the Income-tax Act, the following section shall be inserted, namely:—

Provisional attachment to protect revenue in certain cases.

"281B. (1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or re-assessment of any income which has escaped assessment, the Income-tax Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years.".

Amendment of section 285A.

75. In section 285A of the Income-tax Act, in sub-section (1), for the words "for the construction of a building for, or the supply of goods or services in connection therewith to, any other person, the value of which exceeds fifty thousand rupees", the following shall be substituted, namely:—

"with another person for carrying out any work or for the supply of goods or services in connection therewith, the value of which work or supply or both exceeds fifty thousand rupees".

Insertion of new section 285B.

76. After section 285A of the Income-tax Act, the following section shall be inserted, namely:—

Submission of statements by producers of cinematograph films.

"285B. Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the Income-tax Officer, within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over five thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production as employee or otherwise.".

Amendment of section 287.

77. In section 287 of the Income-tax Act,—

(*i*) in sub-section (*1*), after the word "proceedings", the words "or prosecutions" shall be inserted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner has expired without an appeal having been presented or the appeal, if presented, has been disposed of.".

Insertion of new sections 292A and 292B.

78. After section 292 of the Income-tax Act, the following sections shall be inserted, namely:—

Section 360 of the Code of Criminal Procedure 1973 and the Probation of Offenders Act, 1958 not to apply.

"292A. Nothing contained in section 360 of the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

2 of 1974.
20 of 1958.

Return of income, etc., not to be invalid on certain grounds.

292B. No return of income, assessment, notice, summons or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.".

Amendment of section 295.

79. In sub-section (*2*) of section 295 of the Income-tax Act,—

(*i*) after clause (*dd*), the following clause shall be inserted, namely:—

"(*dda*) the matters specified in sub-sections (*2*) and (*3*) of section 44AA;";

(*ii*) after clause (*e*), the following clauses shall be inserted, namely:—

"(*ee*) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG;

(*eea*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (*6*) of section 139;

(*eeb*) the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A;

(*eec*) the form of the report of audit and the particulars which such report shall contain under sub-section (*2A*) of section 142;";

(*iii*) after clause (*mm*), the following clause shall be inserted, namely:—

"(*mma*) the form in which the statement under section 285B shall be delivered to the Income-tax Officer;".

Substitution of new section for section 296.

80. For section 296 of the Income-tax Act, the following section shall be substituted, namely:—

Rules and certain notifications to be placed before Parliament.

"296. The Central Government shall cause every rule made under this Act and every notification issued under sub-clause (*iv*) of clause (*23C*) of section 10 to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and, if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.".

Amendment of Second Schedule.

81. In the Second Schedule to the Income-tax Act,—

(*i*) rule 19A shall be re-numbered as sub-rule (*2*) thereof, and before that sub-rule as so re-numbered, the following sub-rule shall be inserted, namely:—

"(*1*) A Tax Recovery Officer, being a Gazetted Officer of the Central Government who is authorised to exercise the powers of a Tax Recovery Officer under this Act, may entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer:

Provided that where the Tax Recovery Officer is an Income-tax Officer any entrustment under this sub-rule shall be made only with the approval of the Inspecting Assistant Commissioner.";

(*ii*) in rule 53, in clause (c), the word "and" occurring at the end shall be omitted, and after that clause, the following clause shall be inserted, namely:—

"(cc) the reserve price, if any, below which the property may not be sold; and";

(*iii*) to rule 56, the following proviso shall be added, namely:—

"Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (*cc*) of rule 53.";

(*iv*) rule 59 shall be re-numbered as sub-rule (*2*) thereof, and before that sub-rule as so re-numbered, the following sub-rule shall be inserted, namely:—

"(*1*) Where the sale of a property, for which a reserve price has been specified under clause (*cc*) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for an Income-tax Officer, if so authorised by the Commissioner in this behalf, to bid for the property on behalf of the Central Government at any subsequent sale.";

(*v*) in Part III, after rule 68, the following rule shall be inserted, namely:—

Acceptance of property in satisfaction of amount due from the defaulter.

"68A. (*1*) Without prejudice to the provisions contained in this Part, an Income-tax Officer, duly authorised by the Commissioner in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reason mentioned in sub-rule (*1*) of rule 59, at such price as may be agreed upon between the Income-tax Officer and the defaulter.

(*2*) Where any property is accepted under sub-rule (*1*), the defaulter shall deliver possession of such property to the Income-tax Officer and on the date the possession of the property is delivered to the Income-tax Officer, the property shall vest in the Central Government and the Central Government shall, where necessary, intimate the concerned Registering Officer appointed under the Registration Act, 1908, accordingly.

16 of 1908.

(*3*) Where the price of the property agreed upon under sub-rule (*1*) exceeds the amount due from the defaulter, such excess shall be paid by the Income-tax Officer to the defaulter within a period of three months from the date of delivery of possession of the property and where the Income-tax Officer fails to pay such excess within the period aforesaid, the Central Government shall, for the period commencing on the expiry of such period and ending with the date of payment of the amount remaining unpaid, pay simple interest at twelve per cent. per annum to the defaulter on such amount.";

(*vi*) in rule 73,—

(*i*) after sub-rule (*3*), the following sub-rule shall be inserted, namely:— ,

"(*3A*) A warrant of arrest issued by a Tax Recovery Officer under sub-rule (*2*) or sub-rule (*3*) may also be exe-

cuted by any other Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found.";

(*ii*) in sub-rule (*4*),—

(*a*) for the words, brackets and figures "sub-rule (2) or sub-rule (3)", the words "this rule" shall be substituted, and after the words "Tax Recovery Officer", the words "issuing the warrant" shall be inserted;

(*b*) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this rule, where the defaulter is a Hindu undivided family, the *Karta* thereof shall be deemed to be the defaulter.".

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amendment of section 4.

82. In section 4 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), **27 of 1957.**—

(*i*) in clause (*a*) of sub-section (*1*),—

(*a*) in sub-clause (*iii*), after the words "by the individual", the words ", directly or indirectly," shall be inserted;

(*b*) in sub-clause (*iv*), the word "or" shall be inserted at the end and after that sub-clause, the following sub-clause shall be inserted, namely:—

"(*v*) by the son's wife, or the son's minor child, of such individual, to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration,";

(*ii*) in sub-section (*1A*),—

(*a*) in clause (*b*), the words ", in so far as it is attributable to the interest of the individual in the property of the family," shall be omitted;

(*b*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the converted property or any part thereof which is received by the spouse or minor child of the individual on such partition shall be deemed to be assets transferred indirectly by the individual to the spouse or minor child and the provisions of sub-section (*1*) shall, so far as may be, apply accordingly:";

(*iii*) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5*A*) Where a gift of money from one person to another is made by means of entries in the books of account maintained by the person making the gift or by an individual or a Hindu undivided family or a firm or an association of persons or body of individuals with whom or which he has business or other relationship, the value of such gift shall be liable to be included in computing the net wealth of the person making the gift unless he proves to the satisfaction of the Wealth-tax Officer that the money has actually been delivered to the other person at the time the entries were made.";

(*iv*) in the *Explanation*,—

(*a*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) the expression "child" includes a step-child and an adopted child;';

(*b*) in clause (*b*), the word "and" shall be inserted at the end;

(*c*) in clause (*c*), the word "and" occurring at the end shall be omitted;

(*d*) clause (*d*) shall be omitted.

Amendment of section 5.

83. In sub-section (*1*) of section 5 of the Wealth-tax Act, in clause (*v*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that they are held by him in his own right as the inventor or author of such patent or copyright, as the case may be, and have not been assigned to, or acquired by, him under a contract or by way of inheritance or otherwise;".

Amendment of section 8.

84. In section 8 of the Wealth-tax Act, in the proviso, for the portion beginning with the words "and perform such functions" and ending with the words "work to be performed", the following shall be substituted, namely:—

"and shall perform their functions in respect of such individual, Hindu undivided family or company, as the case may be, in accordance with such general or special orders in writing as the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf may make for the purpose of facilitating the performance of such functions".

Insertion of new section 8AA.

85. After section 8A of the Wealth-tax Act, the following section shall be inserted, namely:—

Concurrent jurisdiction of Inspecting Assistant.

"8AA. (*1*) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on or assigned to the Wealth-tax Officer or Wealth-tax Officers by or under this Act in respect of any area, or cases or classes of cases, or persons or classes of persons shall be exercised or performed concurrently by the Inspecting Assistant Commissioner.

Commissioner and Wealth-tax Officer.

(2) Where under sub-section (1), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Wealth-tax Officers in respect of any area, cases or classes of cases, or persons or classes of persons, the Wealth-tax Officer or Wealth-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (2) of section 13, every Wealth-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act:

Provided that no instructions which are prejudicial to the assessee shall be issued before an opportunity is given by the Inspecting Assistant Commissioner to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(4) Where an order is made under sub-section (1) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of a Wealth-tax Officer in respect of any case or person or proceeding, references in this Act or in any rule made thereunder to the Wealth-tax Officer and the Appellate Assistant Commissioner shall be construed as references to the Inspecting Assistant Commissioner and the Commissioner respectively and, accordingly,—

(*i*) any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(*ii*) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner;

(*iii*) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner.".

Amendment of section 8B.

86. In section 8B of the Wealth-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:—

(*a*) any Wealth-tax Officer or Wealth-tax Officers;

(*b*) any Wealth-tax Officer or Wealth-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Wealth-tax Officer or Wealth-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant

Commissioner) also subordinate to him and the Board any similarly transfer any case from—

(*i*) any Wealth-tax Officer or Wealth-tax Officers, or

(*ii*) any Wealth-tax Officer or Wealth-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Wealth-tax Officer or Wealth-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner):

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where a transfer is from any Wealth-tax Officer or Wealth-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to any other Wealth-tax Officer or Wealth-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) and the offices of all such officers are situated in the same city, locality or place:

Provided further that—

(*a*) where any case has been transferred from any Wealth-tax Officer or Wealth-tax Officers to two or more Wealth-tax Officers, the Wealth-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions;

(*b*) where any case has been transferred from any Wealth-tax Officer or Wealth-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to two or more Wealth-tax Officers with concurrent jurisdiction with the Inspecting Assistant Commissioner, the officers (including the Inspecting Assistant Commissioner) to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions and the Wealth-tax Officers shall perform their functions also in accordance with such orders or directions as the Inspecting Assistant Commissioner may make under section 8 or, as the case may be, under sub-section (*2*) of section 8AA.".

Amendment of section 11B.

87. In section 11B of the Wealth-tax Act, after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) in a case where two or more Wealth-tax Officers have concurrent jurisdiction over such assessee in respect of such function, be the Wealth-tax Officers empowered to perform such function by the Board or, as the case may be, the Wealth-tax Officers to whom

such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under section 8 or, as the case may be, under sub-section (2) of section 8AA.".

Amendment of section 15A.

88. In section 15A of the Wealth-tax Act, for clause (c), the following clause shall be substituted, namely:—

"(c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any director thereof.".

Amendment of section 15B.

89. In section 15B of the Wealth-tax Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where any tax is payable on the basis of any return required to be furnished under section 14 or section 15 or section 17, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), the Wealth-tax Officer may direct that a sum equal to two per cent. of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.".

Insertion of new section 17A.

90. After section 17 of the Wealth-tax Act, the following section shall be inserted, namely:—

Time-limit for completion of assessment and re-assessment.

"17A. (1) No order of assessment shall be made under section 16 at any time after the expiration of a period of—

(a) four years commencing on and from the 1st day of April, 1975 or one year from the date of the filing of a return or a revised return under section 15, whichever is later, where the assessment year is an assessment year commencing before that date;

(b) four years from the end of the assessment year in which the net wealth was first assessable, or one year from the date of the filing of a return or a revised return under section 15, whichever is later, where the assessment year is an assessment year commencing on or after the 1st day of April, 1975.

(2) No order of assessment or re-assessment shall be made under section 17,—

(a) where any proceeding for an assessment or re-assessment is pending on the 1st day of April, 1975, at any time after the expiration of a period of four years commencing on and from that date;

(b) where the assessment or re-assessment is to be made in a case falling within clause (a) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, at any time after the expiration of a period of four years from the end of the assessment year in which such notice was served;

(c) where the assessment or re-assessment is to be made in a case falling within clause (b) of sub-section (1) of section 17 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, after the expiration of a period of—

(i) four years from the end of the assessment year in which the net wealth was first assessable, or

(ii) one year from the date of service of such notice,

whichever period expires later.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975, under section 23, section 24 or section 25, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 23 or section 24 is received by the Commissioner or, as the case may be, the order under section 25 is passed by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or re-assessment made on the assessee or any other person in consequence of, or to give effect to, any finding or direction contained in an order under section 23, section 24, section 25, section 27 or section 29 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, and such assessment or re-assessment, may, subject to the provisions of sub-section (3), be completed at any time.

Explanation 1.—In computing the period of limitation for the purposes of this section—

(i) the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 39, or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, or

(iii) in a case where an application made before the Wealth-tax Settlement Commission under section 22C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending

with the date on which the order under sub-section (*1*) of section 22D is received by the Commissioner under sub-section (*2*) of that section,

shall be excluded.

Explanation 2.—Where, by an order referred to in sub-section (*4*), any asset is excluded from the net wealth of one person and held to be the asset of another person, then, an assessment in respect of such asset on such other person shall, for the purposes of sub-section (*2*) of section 17 and this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed.".

Amendment of section 18.

91. In section 18 of the Wealth-tax Act,—

(*i*) in sub-section (*1*), for clauses (*i*), (*ii*), (*iii*) and the *Explanations*, the following clauses and *Explanations* shall be substituted, namely:—

'(*i*) in the cases referred to in clause (*a*), in addition to the amount of wealth-tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued.

Explanation.—In this clause, "assessed tax" means the wealth-tax chargeable under the provisions of this Act;

(*ii*) in the cases referred to in clause (*b*), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than ten per cent., but which shall not exceed fifty per cent. of the amount of the wealth-tax, if any, which would have been avoided if the net wealth returned by such person had been accepted as the correct net wealth;

(*iii*) in the cases referred to in clause (c), in addition to any wealth-tax payable by him, a sum which shall not be less than, but which shall not exceed five times, the amount of tax sought to be evaded by reason of the concealment of particulars of any assets or the furnishing of inaccurate particulars in respect of any assets or debts.

Explanation 1.—For the purposes of clause (*iii*) of this sub-section, the expression "the amount of tax sought to be evaded"—

(*a*) in a case to which *Explanation 3* applies, means the tax on the net wealth assessed;

(*b*) in any other case, means the difference between the tax on the net wealth assessed and the tax that would have been chargeable had the net wealth assessed been reduced by the amount which represents the value of any assets in respect of which particulars have been concealed or inaccurate particulars have been furnished and of any debts in respect of which inaccurate particulars have been furnished.

Explanation 2.—Where in respect of any facts material to the computation of the net wealth of any person under this Act,—

(*A*) such person fails to offer an explanation or offers an explanation which is found by the Wealth-tax Officer or the Appellate Assistant Commissioner to be false, or

(*B*) such person offers an explanation which he is not able to substantiate,

then, the amount added or disallowed in computing the net wealth of such person as a result thereof shall, for the purposes of clause (c) of this sub-section, be deemed to represent the value of the assets in respect of which particulars have been concealed:

Provided that nothing contained in this *Explanation* shall apply to a case referred to in clause (*B*) in respect of any amount added or disallowed as a result of the rejection of any explanation offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of his net wealth have been disclosed by him.

Explanation 3.—Where any person who has not previously been assessed under this Act fails, without reasonable cause, to furnish within the period specified in clause (*a*) or, as the case may be, clause (b) of sub-section (*1*) of section 17A a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year and, until the expiry of either of the periods applicable to him, no notice had been issued to him under sub-section (*2*) of section 14 or sub-section (*1*) of section 17 and the Wealth-tax Officer or the Appellate Assistant Commissioner is satisfied that in respect of such assessment year such person has assessable net wealth, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17.

Explanation 4.—Where the value of any asset returned by any person is less than seventy per cent. of the value of such asset as determined in an assessment under section 16 or section 17, such person shall be deemed to have furnished inaccurate particulars of such asset within the meaning of clause (c) of this sub-section, unless he proves that the value of the asset as returned by him is the correct value.';

(*ii*) sub-section (*1A*) shall be omitted;

(iii) sub-sections (*2A*) and (*2B*) shall be omitted;

(*iv*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) Notwithstanding anything contained in clause (*iii*) of sub-section (*1*), if, in a case falling under clause (*c*) of that sub-section, the amount (as determined by the Wealth-tax Officer on assessment) in respect of which penalty is imposable under clause (*c*) aforesaid exceeds a sum of twenty-five thousand rupees, the

Wealth-tax Officer shall not issue any direction under sub-section (*1*) for payment by way of penalty without the previous approval of the Inspecting Assistant Commissioner.

(*3A*) Notwithstanding anything contained in this section, the penalty imposed under clause (*iii*) of sub-section (*1*) read with *Explanation 3* to that sub-section and the penalty imposed under clause (*i*) of that sub-section shall not exceed, in the aggregate, five times the amount of the tax sought to be evaded.";

(*v*) for the *Explanation* below sub-section (5), the following *Explanation* shall be substituted, namely:—

"*Explanation.*—In computing the period of limitation for the purposes of this section,—

(*i*) any period during which the immunity granted under section 22H remained in force;

(*ii*) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39; and

(*iii*) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.".

Insertion of new sections 18A and 18B.

92. In Chapter IV of the Wealth-tax Act, after section 18, the following sections shall be inserted, namely:—

Penalty for failure to answer questions, sign statements, allow inspections, etc.

"18A. (*1*) If a person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by a Wealth-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner, in the exercise of his powers under this Act; or

(*b*) refuses to sign any statement made by him in the course of any proceeding under this Act which a Wealth-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(*2*) If a person, without reasonable cause, fails to furnish in due time such statement or information which such person is bound to furnish to the Wealth-tax Officer under section 38, he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(*3*) No order shall be made under this section except by an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner, and where a contravention, failure or default for which any penalty is imposable under this section occurs in the course of any proceeding before a Wealth-tax Officer, the Wealth-tax Officer shall refer the case to the Inspecting Assistant Commissioner for passing such orders as he deems fit.

(4) No order under this section shall be passed by any officer referred to in sub-section (3), unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.

Power to reduce or waive penalty in certain cases.

18B. (1) Notwithstanding anything contained in this Act, the Commissioner may, in his discretion, whether on his own motion or otherwise,—

(i) reduce or waive the amount of penalty imposed or imposable on a person under clause (i) of sub-section (1) of section 18 for failure without reasonable cause to furnish the return of net wealth which such person was required to furnish under sub-section (1) of section 14; or

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section (1) of section 18,

if he is satisfied that such person,—

(a) in the case referred to in clause (i), has, prior to the issue of a notice to him under sub-section (2) of section 14, voluntarily and in good faith, made full and true disclosure of his net wealth, and

(b) in the case referred to in clause (ii), has, prior to the detection by the Wealth-tax Officer, of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any asset or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosure of such particulars,

and also has co-operated in any inquiry relating to the assessment of his net wealth and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of the particulars of his assets or debts in any case where the excess of net wealth assessed over the net wealth returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of section 18.

(2) Notwithstanding anything contained in sub-section (1), if in a case falling under clause (c) of sub-section (1) of section 18, the net wealth in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the net wealth for any one of the relevant assessment years, exceeds five hundred thousand rupees, no order reducing or waiving the penalty under sub-section (1) shall be made by the Commissioner, except with the previous approval of the Board.

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this

section in relation to any other assessment year at any time after the making of such order.

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(*i*) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case, and

(*ii*) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.".

Insertion of new Chapter V.A.

93. After Chapter V of the Wealth-tax Act, the following Chapter shall be inserted, namely:—

'CHAPTER VA

SETTLEMENT OF CASES

Definitions.

22A. In this Chapter, unless the context otherwise requires,—

(*a*) "case" means any proceeding under this Act for or in connection with the assessment or re-assessment of any person in respect of any year or years which may be pending before a Wealth-tax authority on the date on which an application referred to in section 22C is made;

Wealth-tax Settlement Commission.

(*b*) "Wealth-tax authority" means a Director of Inspection, a Commissioner, an Appellate Assistant Commissioner, an Inspecting Assistant Commissioner or a Wealth-tax Officer.

22B. (*1*) The Central Government shall constitute a Commission to be called the Wealth-tax Settlement Commission (hereafter in this Chapter referred to as "the Settlement Commission") for the settlement of cases under this Chapter.

(2) The Settlement Commission shall consist of a Chairman and two other members and shall function within the Department of the Central Government dealing with direct taxes.

(3) The Chairman and other members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, problems reating to direct taxes and business accounts:

Provided that, where a member of the Board is appointed as the Chairman or as a member of the Settlement Commission, he shall cease to be a member of the Board:

Provided further that, until the members are appointed under this sub-section, it shall be competent for the Central Government to require, from time to time, any two members of the Board to serve as members of the Settlement Commission for such period as the Central Government thinks fit, in addition to their duties as members of the Board.

Application for settlement of cases.

22C. (*1*) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(*2*) Every application made under sub-section (*1*) shall be accompanied by such fees as may be prescribed.

(*3*) An application made under sub-section (*1*) shall not be allowed to be withdrawn by the applicant.

Procedure on receipt of an application under section 22C.

22D. (*1*) On receipt of an application under section 22C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided further that an application shall not be proceeded with under this sub-section if the Commissioner objects to the application being proceeded with on the ground that concealment of particulars of the net wealth on the part of the applicant or perpetration of fraud by him for evading any tax or other sum chargeable or imposable under this Act has been established or is likely to be established by any Wealth-tax authority, in relation to the case.

(*2*) A copy of every order under sub-section (*1*) shall be sent to the applicant and to the Commissioner.

(*3*) Where an application is allowed to be proceeded with under sub-section (*1*), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(*4*) After examination of the records and the report of the Commissioner received under sub-section (*1*) and the report, if any, of the Commissioner received under sub-section (*3*), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed

before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application but referred to in the report of the Commissioner under sub-section (*1*) or sub-section (*3*).

(5) The materials brought on record before the Settlement Commission shall be considered by all the members thereof before passing any order under sub-section (*4*) and in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority.

(*6*) Every order passed under sub-section (*4*) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(7) Where a settlement becomes void as provided in sub-section (*6*), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Wealth-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void.

Power of settlement Commission to re-open completed proceedings.

22E. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to re-open any proceeding connected with the case, but which has been completed under this Act by any Wealth-tax authority before the application under section 22C was made, it may, with the concurrence of the applicant, re-open such proceeding and pass such order thereon as it thinks fit as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be re-opened by the Settlement Commission under this section after the expiry of a period of eight years from the end of the assessment year to which such proceeding relates.

Powers and procedure of Settlement Commission.

22F. (*1*) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a Wealth-tax authority under this Act.

(*2*) Where an application made under section 22C has been allowed to be proceeded with under section 22D, the Settlement Commission shall, until an order is passed under sub-section (*4*) of section 22D, have, subject to the provisions of sub-section (*3*) of that section, exclusive jurisdiction to exercise the powers and perform the functions of a Wealth-tax authority under this Act in relation to the case.

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment in relation to the matters before the Settlement Commission.

(4) For the removal of doubt, it is hereby declared that in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(5) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure (including the fixation of places and times of its meetings) and may act notwithstanding that all the members of the Settlement Commission are not present at any of its meetings.

Inspection, etc., of reports.

22G. No person shall be entitled to inspect, or obtain copies of, any reports made by any Wealth-tax authority to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on the record against him in any such report, the Settlement Commission shall, on an application made in this behalf and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Powers of Settlement Commission to grant immunity from prosecution.

22H. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 22C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his net wealth and the manner in which such wealth has been acquired, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act, with respect to the case covered by the settlement.

45 of 1860.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person has not complied with the conditions subject to which the immunity was granted or that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

Order of settlement to be conclusive

22I. Every order of settlement passed under sub-section (4) of section 22D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be re-opened in any proceeding under this Act or under any other law for the time being in force.

Recovery of sums due under order of settlement.

22J. Any sum specified in an order of settlement passed under sub-section (4) of section 22D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of section 32 by the Wealth-tax Officer having jurisdiction over the person who made the application for settlement under section 22C.

Bar on subsequent application for settlement in certain cases.

22K. Where—

(*i*) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or

(*ii*) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case,

then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.

Proceedings before Settlement Commission to be judicial proceedings.

22L. Any proceeding under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code. 45 of 1860.

Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.

22M. (1) Notwithstanding anything contained in this Chapter, any assessee who has filed an appeal to the Appellate Tribunal under this Act which is pending before it shall, on withdrawing such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled under this Chapter:

Provided that no such assessee shall be entitled to make an application in a case where the Wealth-tax Officer has preferred an appeal under sub-section (2) of section 24 against the order to which the assessee's appeal relates.

(2) Any assessee referred to in sub-section (1) may make an application to the Appellate Tribunal for permission to withdraw the appeal.

(3) On receipt of an application under sub-section (2), the Appellate Tribunal shall grant permission to withdraw the appeal.

(4) Upon the withdrawal of the appeal, the proceeding in appeal immediately before such withdrawal shall, for the purposes of this Chapter, be deemed to be a proceeding pending before a Wealth-tax authority.

(5) An application to the Settlement Commission under this section shall be made within a period of thirty days from the date on which the order of the Appellate Tribunal permitting the withdrawal of the appeal is communicated to the assessee.

(6) An application made to the Settlement Commission under this section shall be deemed to be an application made under sub-section (1) of section 22C and the provisions of this Chapter [except sub-section (7) of section 22D] shall apply accordingly.

(7) Where an application made to the Settlement Commission under this section is not entertained by the Settlement Commission, then, the assessee shall not be deemed to have withdrawn the appeal from the Appellate Tribunal and the provisions contained in section 24 and section 26 shall, so far as may be, apply accordingly.'.

Amendment of section 23.

94. In section 23 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal he has paid the tax due on the net wealth returned by him:

Provided that, on an application made by the appellant in this behalf, the Appellate Assistant Commissioner may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provision of this sub-section.".

Amendment of section 24.

95. In section 24 of the Wealth-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An assessee objecting to an order passed by the Appellate Assistant Commissioner under section 18 or section 18A or section 23 or sub-section (2) of section 37, or to an order passed by the Inspecting Assistant Commissioner under section 18A, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.".

Amendment of section 26.

96. In sub-section (1) of section 26 of the Wealth-tax Act, after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted.

Amendment of section 34A.

97. In section 34A of the Wealth-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Where the whole or any part of the refund referred to in sub-section (3) is due to the assessee as a result of any amount

having been paid by him after the 31st day of March, 1975 in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (3) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted:

Provided that, where the amount so found to be in excess was paid in instalments, such interest shall be payable on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted:

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided also that, where any interest is payable to an assessee under this sub-section, no interest under sub-section (3) shall be payable to him in respect of the amount so found to be in excess.".

Substitution of new sections for section 34B.

98. For section 34B of the Wealth-tax Act, the following sections shall be substituted, namely:—

Transfers to defraud revenue to be void.

'34B. (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule to the Income-tax Act as made applicable to this Act by section 32, any assessee creates a charge on, or parts with (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) the possession of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise:

Provided that such charge or transfer shall not be void, if it is made—

(*i*) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or

(*ii*) with the previous permission of the Wealth-tax Officer.

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks to the extent to which any of the assets aforesaid does not form part of the stock in trade of the business of the assessee.

Provisional attachment to protect revenue in certain cases.

34C. (*1*) Where, during the pendency of any proceeding for the assessment of net wealth or for the assessment or re-assessment of net wealth which has escaped assessment, the Wealth-tax Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule to the Income-tax Act as made applicable to this Act by section 32.

(*2*) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (*1*):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so however, that the total period of extension shall not in any case exceed two years.'.

Amendment of section 35.

99. In sub-section (*1*) of section 35 of the Wealth-tax Act, clause (*c*) shall be omitted.

Insertion of new sections 35A to 35N.

100. After section 35 of the Wealth-tax Act, the following sections shall be inserted, namely:—

Wilful attempt to evade tax, etc.

"35A. (*1*) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

(*i*) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

(*2*) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(*a*) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement, or

(*b*) makes, or causes to be made, any false entry or statement in such books of account or other documents, or

(*c*) wilfully omits, or causes to be omitted, any relevant entry or statement in such books of account or other documents, or

(*d*) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

Failure to furnish returns of net wealth.

35B. If a person wilfully fails to furnish in due time the return of his net wealth which he is required to furnish under sub-section (*1*) of section 14 or by notice given under sub-section (*2*) of section 14 or under sub-section (*1*) of section 17, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of net wealth under sub-section (*1*) of section 14—

(*i*) for any assessment year commencing prior to the 1st day of April, 1975; or

(*ii*) for any assessment year commencing on or after the 1st day of April, 1975, if—

(*a*) the return is furnished by him before the expiry of the assessment year; or

(*b*) the tax payable by him on his net wealth determined on regular assessment does not exceed three thousand rupees.

Failure to produce accounts, records, etc.

35C. If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice under sub-section (*4*) of section 16, such accounts, records and documents as are referred to in the notice, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.

False statement in verification, etc. made under certain provisions of the Act.

35D. If a person makes a statement in any verification under this Act (other than under section 34AB) or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(*i*) in a case where the amount of tax which would have been evaded if the statement or account had been accepted as true,

exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

False statement in verification mentioned in section 34AB.

35E. If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Abetment of false return, etc.

35F. If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (*1*) of section 35A, he shall be punishable,—

(*i*) in a case where the amount of tax, penalty or interest, which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Punishment for second and subsequent offences.

35G. If any person convicted of an offence under sub-section (*1*) of section 35A or section 35B or section 35D or section 35F is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

Offences by Hindu undivided families.

35H. (*1*) Where an offence under this Act has been committed by a Hindu undivided family, the *Karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *Karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member thereof, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Prosecutions to be at the instance of Commissioner and power of Commissioner to compound offences.

35I. (*1*) A person shall not be proceeded against for an offence under this Act except at the instance of the Commissioner.

(*2*) The Commissioner may, either before or after the institution of proceedings, compound any offence under this Act.

Certain offences to be non-cognizable.

35J. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 35A or section 35B or section 35D or section 35F shall be deemed to be non-cognizable within the meaning of that Code. 2 of 1974.

Bar on prosecutions and on inadmissibility of evidence in certain circumstances.

35K. (*1*) A person shall not be proceeded against for an offence under section 35A or section 35D in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under clause (*iii*) of sub-section (*1*) of section 18 has been reduced or waived by an order under section 18B.

(*2*) Where any proceeding for prosecution has been taken against any person under this Act, any statement made or account or other document produced by such person before any of the wealth-tax authorities specified in sections 8, 9, 10, 10A and 11 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived under section 18B or that the offence in respect of which such proceeding was taken would be compounded.

Jurisdiction of courts.

35L. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

Section 360 of the Code of Criminal Procedure, 1973 and the Probation of Offenders Act, 1958, not to apply.

35M. Nothing contained in section 360 of the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an affence under this Act unless that person is under eighteen years of age. 2 of 1974. 20 of 1958.

Presumption as to books of account, etc., in certain cases.

35N. (*1*) Where during the course of any search made under section 37A, any books of account or other documents, articles or things including money have been found in the possession or control of any person and such books of account or other documents are tendered, or such articles or things including money are relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (*5*) of section 37A shall, so far as may be, apply in relation to such books of account or other documents articles or things including money.

(2) Where—

(i) any books of account or other documents taken into custody, from the possession or control of any person by any officer or authority under clause (a) or clause (b) of sub-section (1) of section 37B, are delivered to the requisitioning officer under sub-section (2) of that section; or

(ii) any note or inventory of any articles or things including money taken into custody, from the possession of any person, by any officer or authority under clause (c) of sub-section (1) of section 37B, is furnished to the requisitioning officer under sub-section (2) of that section,

and such books of account or other documents are tendered, or such note or inventory is relied upon, by the prosecution in evidence against such person or against such person and the person referred to in section 35F for an offence under this Act, the provisions of sub-section (5) of section 37A shall, so far as may be, apply in relation to such books of account or other documents or, as the case may be, the articles or things including money, covered by such note or inventory.".

Omission of section 36.

101. Section 36 of the Wealth-tax Act shall be omitted.

Substitution of new sections for section 37A.

102. For section 37A of the Wealth-tax Act, the following sections shall be substituted, namely:—

Power of search and seizure.

'37A. (1) Where the Director of Inspection or the Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or

(b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce, or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or

(c) any person is in possession of any articles or things including money disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act,

then,—

(A) the Director of Inspection or the Commissioner, as the case may be, may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Wealth-tax Officer, or

(*B*) such Deputy Director of Inspection or Inspecting Assistant Commissioner may authorise any Assistant Director of Inspection or Wealth-tax Officer,

(the officer so authorised in all cases being hereafter in this section referred to as the authorised officer) to—

(*i*) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account or other documents, articles or things including money are kept;

(*ii*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents, articles or things including money;

(*iii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

(*iv*) seize any such books of account or other documents;

(*v*) place marks of identification on any such books of account or other documents or make, or cause to be made, extracts or copies therefrom;

(*vi*) make a note or an inventory of any articles or things including money found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any Commissioner but such Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of this sub-section, then, notwithstanding anything contained in section 10, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue.

(*2*) Where any Commissioner, in consequence of information in his possession, has reason to suspect that any books of account or other documents, articles or things including money in respect of which an officer has been authorised by the Director of Inspection or any other Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board to take action under clauses (*i*) to (*vi*) of sub-section (*1*) are kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (*1*), such Commissioner may, notwithstanding anything contained in section 10, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.

(*3*) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both to assist him for all or any of the purposes specified in sub-section

(*1*) or sub-section (*2*) and it shall be the duty of every such officer to comply with such requisition.

(*4*) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account or other documents, articles or things including money and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

(*5*) Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may be presumed that—

(*i*) such books of account or other documents, articles or things including money belong to such person;

(*ii*) the contents of such books of account or other documents are true; and

(*iii*) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

(*6*) The books of account or other documents seized under sub-section (*1*) or sub-section (*2*) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commissioner for such retention is obtained:

Provided that the Commissioner shall not authorise the retention of the books of account or other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

(*7*) The person from whose custody any books of account or other documents are seized under sub-section (*1*) or sub-section (*2*) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(*8*) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (c) of sub-section (*1*), the books of account or other documents seized under that sub-section shall be handed over by the authorised officer to the Wealth-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (*6*) or sub-section (*7*) shall be exercisable by such Wealth-tax Officer.

(*9*) If a person legally entitled to the books of account or other documents seized under sub-section (*1*) or sub-section (*2*) objects

for any reason to the approval given by the Commissioner under sub-section (*6*), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents.

(*10*) On receipt of the application under sub-section (*9*), the Board may, after giving the applicant an opportunity of being heard, pass such orders thereon as it thinks fit.

(*11*) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to searches under this section. 2 of 1974.

(*12*) The Board may make rules in relation to searches or seizure under this section; and in particular and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(*ii*) for ensuring the safe custody of any books of account or other documents seized.

Power to requisition books of account, etc.

37B. (*1*) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a notice under sub-section (*4*) of section 16 or a summons under section 37 was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under this Act and any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(c) any articles or things including money disproportionate to the known assets of any person, particulars of which will be useful for, or relevant to, any proceeding under this Act, have been taken into custody by any officer or authority, under any other law for the time being in force, from the possession of such person,

then, the Director of Inspection or the Commissioner may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Wealth-tax Officer (here-

after in this section referred to as the requisitioning officer) to require such officer or authority,—

(*i*) in a case falling under clause (*a*) or clause (*b*), to deliver such books of account or other documents to the requisitioning officer;

(*ii*) in a case falling under clause (*c*), to furnish a note or an inventory of such articles or things including money to the requisitioning officer.

(*2*) On a requisition being made under sub-section (*1*),—

(*i*) in a case falling under clause (*a*) or clause (*b*) of that sub-section, the officer or authority referred to therein shall deliver the books of account or other documents to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody;

(*ii*) in a case falling under clause (*c*), the officer or authority referred to therein shall furnish the note or inventory to the requisitioning officer within a reasonable period.

(*3*) Where any books of account or other documents have been delivered to the requisitioning officer, the provisions of sub-sections (*5*) to (*12*) (both inclusive) of section 37A shall, so far as may be, apply as if such books of account or other documents had been seized under sub-section (*1*) of that section by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*), as the case may be, of sub-section (*1*) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections, the words "the requisitioning officer" were substituted.'.

103. In section 42A of the Wealth-tax Act,— Amendment of section 42A.

(*i*) in sub-section (*1*), after the word "proceedings", the words "or prosecutions" shall be inserted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner has expired without an appeal having been presented or the appeal, if presented, has been disposed of.".

104. After section 42B of the Wealth-tax Act, the following section shall be inserted, namely:— Insertion of new section 42C.

"42C. No return of wealth, assessment, notice, summons or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such Return of wealth, etc., not to be invalid on certain grounds.

return of wealth, assessment, notice, summons or other proceeding if such return of wealth, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.".

Amendment of section 46.

105. In sub-section (4) of section 46 of the Wealth-tax Act,—

(*i*) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(*ii*) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

Insertion of new section 6A.

106. In Chapter II of the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), after section 6, the following section shall be inserted, namely:— 18 of 1958.

Aggregation of gifts made during a certain period.

"6A. Notwithstanding anything contained in this Act, where an assessee has made taxable gifts during any previous year and has also made taxable gifts (not being gifts made at any time before the 1st day of June, 1973) during any one or more of the four previous years immediately preceding such previous year, the gift-tax payable by him for the assessment year relevant to such previous year (hereafter in this section referred to as the assessment year) shall be determined in the following manner, namely:—

(*a*) the value of the taxable gifts made during any one or more of the four previous years immediately preceding such previous year shall be aggregated with the value of the taxable gifts made by the assessee during such previous year and gift-tax shall be calculated on the aggregate value at the rate or rates applicable for the assessment year;

(*b*) from the amount of gift-tax calculated under clause (*a*), there shall be deducted an amount equal to the gift-tax payable had the value of the taxable gifts made during one or more of the four previous years immediately preceding such previous year been aggregated and tax levied thereon at the rate or rates applicable for the assessment year, and the balance shall be the amount of gift-tax payable by the assessee.".

Amendment of section 7.

107. In section 7 of the Gift-tax Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where two or more Income-tax Officers have jurisdiction or exercise powers under the Income-tax Act in respect of any person, they shall have concurrent jurisdiction and shall perform their functions of a Gift-tax Officer under this Act in respect of such person in accordance with such general or special

orders in writing as the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions.".

Insertion of new section 7AA.

108. After section 7A of the Gift-tax Act, the following section shall be inserted, namely:—

Concurrent jurisdiction of Inspecting Assistant Commissioner and Gift-tax Officer.

"7AA. (*1*) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on or assigned to the Gift-tax Officer or Gift-tax Officers by or under this Act in respect of any area, or cases or classes of cases, or persons or class of persons, shall be exercised or performed concurrently by the Inspecting Assistant Commissioner.

(*2*) Where under sub-section (*1*), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Gift-tax Officers in respect of any area, cases or classes of cases, persons or classes of persons, the Gift-tax Officer or Gift-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct.

(*3*) Without prejudice to the generality of the provisions contained in sub-section (*2*) of section 12, every Gift-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act:

Provided that no instructions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard.

Explanation.—For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(*4*) Where an order is made under sub-section (*1*) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of a Gift-tax Officer in respect of any case or person or proceeding under this Act, references in this Act or in any rule made thereunder to the Gift-tax Officer and the Appellate Assistant Commissioner shall be construed as references to the Inspecting Assistant Commissioner and the Commissioner respectively and, accordingly,—

(*i*) any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(*ii*) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner;

(*iii*) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner.".

Amendment of section 7B.

109. For sub-section (*1*) of section 7B of the Gift-tax Act, the following sub-section shall be substituted, namely:—

"(*1*) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:—

(*a*) any Gift-tax Officer or Gift-tax Officers,

(*b*) any Gift-tax Officer or Gift-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) also subordinate to him and the Board may similarly transfer any case from—

(*i*) any Gift-tax Officer or Gift-tax Officers, or

(*ii*) any Gift-tax Officer or Gift-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner):

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Gift-tax Officer or Gift-tax Officers to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) and the offices of all such officers are situated in the same city, locality or place:

Provided further that,—

(*a*) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers to two or more Gift-tax Officers, the Gift-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over the case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Inspecting Assistant Commissioner, authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions,

(*b*) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner)

to two or more Gift-tax Officers with concurrent jurisdiction with the Inspecting Assistant Commissioner, the officers (including the Inspecting Assistant Commissioner) to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions and the Gift-tax Officers shall perform their functions also in accordance with such orders or directions as the Inspecting Assistant Commissioner may make under section 7 or, as the case may be, under sub-section (2) of section 7AA.".

Amendment of section 11AA.

110. In section 11AA of the Gift-tax Act, after clause (*b*), the following clause shall be inserted, namely:—

"(c) in a case where two or more Gift-tax Officers have concurrent jurisdiction over such assessee in respect of such function, be the Gift-tax Officers empowered to perform such function by the Board or, as the case may be, the Gift-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under section 7 or, as the case may be, under sub-section (2) of section 7AA.".

Amendment of section 14A.

111. In section 14A of the Gift-tax Act, for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(c) in the case of a company, by the managing director thereof or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any director thereof;

(d) in the case of a firm, by the managing partner thereof or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;".

Insertion of new section 16A.

112. After section 16 of the Gift-tax Act, the following section shall be inserted, namely:—

Time limit for completion of assessment and re-assessment.

"16A. (*1*) No order of assessment shall be made under section 15 at any time after the expiration of a period of—

(*a*) four years commencing on and from the 1st day of April, 1975 or one year from the date of the filing of a return or a revised return under section 14, whichever is later, where the assessment year is an assessment year commencing before that date;

(*b*) four years from the end of the assessment year in which the gifts were first assessable, or one year from the date of the filing of a return or a revised return under section 14, whichever

is later, where the assessment year is an assessment year commencing on or after the 1st day of April, 1975.

(2) No order of assessment or re-assessment shall be made under section 16,—

(a) where any proceeding for an assessment or a re-assessment is pending on the 1st day of April, 1975, at any time after the expiration of a period of four years commencing on and from that date;

(b) where the assessment or re-assessment is to be made in a case falling within clause (a) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served;

(c) where the assessment or re-assessment is to be made in a case falling within clause (b) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, after the expiration of a period of—

(i) four years from the end of the assessment year in which the gifts were first assessable, or

(ii) one year from the date of service of such notice,

whichever period expires later.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975 under section 22, section 23 or section 24, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 22 or section 23 is received by the Commissioner or, as the case may be, the order under section 24 is passed by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or re-assessment made on the assessee in consequence of, or to give effect to, any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act and such assessment or re-assessment may, subject to the provisions of sub-section (3), be completed at any time.

Explanation 1.—In computing the period of limitation for the purposes of this section—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 38, or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court,

shall be excluded.

Explanation 2.—Where, by an order referred to in sub-section (*4*), any gift is excluded from the taxable gifts for an assessment year in respect of an assessee, then, an assessment of such gift for another assessment year shall, for the purposes of sub-section (*2*) of section 16 and this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order.".

Amendment of section 17.

113. In section 17 of the Gift-tax Act,—

(*i*) in sub-section (*1*), in clause (*i*), the words "but not exceeding in the aggregate fifty per cent. of the assessed tax" shall be omitted;

(*ii*) in sub-section (*3*), for the words "the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for the imposition of penalty", the following shall be substituted, namely:—

"the Gift-tax Officer shall not make any order for payment, by way of penalty, without the previous approval of the Inspecting Assistant Commissioner".

Insertion of new section 17A.

114. After section 17 of the Gift-tax Act, the following section shall be inserted, namely:—

Penalty for failure to answer questions, sign statements, etc.

"17A. (*1*) If a person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by a Gift-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner in the exercise of his powers under this Act, or

(*b*) refuses to sign any statement made by him in the course of any proceeding under this Act which a Gift-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(*2*) If a person, without reasonable cause or excuse, fails to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 37, he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(*3*) No order shall be made under this section except by an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner, and where a contravention, failure or default for which any penalty is imposable under this section

occurs in the course of any proceeding before a Gift-tax Officer, the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner for passing such orders as he deems fit.

(4) No order under this section shall be passed by any officer referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.".

Substitution of new section for section 18.

115. For section 18 of the Gift-tax Act, the following section shall be substituted, namely:—

Rebate on advance payments.

"18. If a person making a taxable gift pays into the treasury within fifteen days of his making the gift any part of the amount of tax due on the gift calculated at the rates specified in the Schedule or, in a case where the provisions of section 6A are applicable to a gift, in the manner specified in that section, he shall, at the time of assessment under section 15, be given credit—

(*i*) for the amount so paid; and

(*ii*) for a sum equal to one-ninth of the amount so paid, so however, that such sum shall in no case exceed one-tenth of the tax due on the gift.

Explanation.—If a person makes more than one taxable gift in the course of a previous year, the amount of tax due on any one of such gifts shall be the difference between the total amount of tax due on the aggregate value of all the taxable gifts so far made, including the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule or, as the case may be, in the manner specified in section 6A, and the total amount of tax on the aggregate value of all the gifts made during that year, excluding the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule or, as the case may be, in the manner specified in section 6A.".

Amendment of section 23.

116. In sub-section (*1*) of section 23 of the Gift-tax Act,—

(*i*) for the words and figures "under section 17", the words, figures and letter "under section 17 or section 17A" shall be substituted;

(*ii*) for the words, brackets and figures "under sub-section (*3*) of section 17", the words, figures and letter "under section 17A" shall be substituted.

Amendment of section 25.

117. In sub-section (*1*) of section 25 of the Gift-tax Act, for the words and figures "under section 17", the words, figures and letter "under section 17 or section 17A" shall be substituted.

Amendment of section 33A.

118. In section 33A of the Gift-tax Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Where the whole or any part of the refund referred to in sub-section (*3*) is due to an assessee as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (*3*) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted:

Provided that, where the amount so found to be in excess was paid in instalments, such interest shall be payable, on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted:

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding:

Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (*3*) shall be payable to him in respect of the amount so found to be in excess.".

Amendment of section 35.

119. In sub-section (*1*) of section 35 of the Gift-tax Act,—

(*i*) in clause (*b*), the words, brackets and figure "sub-section (*2*) or" shall be omitted;

(*ii*) clause (*c*) shall be omitted

Insertion of new sections 35A, 35B and 35C.

120. After section 35 of the Gift-tax Act, the following sections shall be inserted, namely:—

Offences by companies.

'35A. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate, and includes—

(*i*) a firm, and

(*ii*) an association of persons or a body of individuals, whether incorporated or not; and

(*b*) "director", in relation to—

(*i*) a firm, means a partner in the firm,

(*ii*) an association of persons or a body of individuals, means any member controlling the affairs thereof.

Offences by Hindu undivided families.

35B. (1) Where an offence under this Act has been committed by a Hindu undivided family, the *Karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the *Karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply.

35C. Nothing contained in section 360 of the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.'.

2 of 1974.
20 of 1958.

Amendment of section 41A.

121. In section 41A of the Gift-tax Act,—

(*i*) in sub-section (1), after the word "proceedings", the words "or prosecutions" shall be inserted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner has expired without an appeal having been presented or the appeal, if presented, has been disposed of.".

Insertion of new section 41C.

122. After section 41B of the Gift- ax Act, the following section shall be inserted, namely:—

Return of gifts, etc., not to be invalid on certain grounds.

"41C. No return of gifts, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of gifts, assessment, notice, summons or other proceeding, if such return of gifts, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.".

Amendment of section 46.

123. In sub-section (*4*) of section 46 of the Gift-tax Act,—

(*i*) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(*ii*) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Amendment of section 18.

7 of 1964.

124. In section 18 of the Companies (Profits) Surtax Act, 1964 [hereafter in this Chapter referred to as the Companies (Profits) Surtax Act],—

(*i*) after the figures "125", the figures and letter ", 125A" shall be inserted;

(*ii*) after the figures and letter "132A", the figures and letter ", 132B" shall be inserted;

(*iii*) after the figures "281", the figures and letter ", 281B" shall be inserted.

Amendment of section 25.

125. In sub-section (*3*) of section 25 of the Companies (Profits) Surtax Act,—

(*i*) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(ii) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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